

**CALIFORNIA COASTAL COMMISSION**

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**PROPOSED FINDINGS****ON CONSISTENCY CERTIFICATION**

Consistency Certification No.	CC-056-09
Staff:	MPD-SF
File Date:	9/16/2009
3 Months:	12/16/2009
6 Months:	3/16/2010
Commission Vote:	10/7/2009
Commission Action:	Conditional Concurrence
Hearing on Findings:	12/10/2009

**APPLICANT:**                    **City of San Diego**

**PROJECT LOCATION:**                    E.W. Blom Point Loma Wastewater Treatment Plant (WTP), City of San Diego, with ocean outfall discharge point 4.5 miles offshore of Point Loma, San Diego (Exhibit 1)

**PROJECT DESCRIPTION:**                    Reissuance of Secondary Treatment Waiver

**FEDERAL AGENCY AND PERMIT:**                    Environmental Protection Agency (EPA) Reissuance, under Section 301(h) of the Clean Water Act, of a modified National Pollutant Discharge Elimination System (NPDES) Permit for Wastewater Treatment Plant Discharges

**COMMISSION ACTION:**                    Conditionally Concur in the City of San Diego's Consistency Certification for the above-referenced federally-permitted activity

**PREVAILING COMMISSIONERS:**                    Commissioners Achadjian, Blank, Burke, Clark, Kram, Krueger, Sanchez, and Chair Neely

**SUBSTANTIVE FILE**

**DOCUMENTS:** See page 53.

**Staff Recommendation:** Adopt Proposed Findings in support of the Commission’s October 7, 2009, action. Motion is on page 21.

**PROCEDURAL NOTES:** Adoption of the Revised Findings requires a majority vote of Commission members who both were on the prevailing side and who are present at the December, 2009, Commission hearing at which these Revised Findings are presented, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission’s action are eligible to vote on the revised findings. The staff recommendation, motion, and resolution are located starting on page 20 of this report. The remainder of this report is a revised version of the report presented to the Commission in October of this year, revised to reflect the Commission’s October 7, 2009, action. Additions are shown in underlined text and deletions are shown in ~~striketrough text~~.

**EXECUTIVE SUMMARY**

Under the federal Clean Water Act, wastewater discharges from publicly owned treatment works (POTWs) are required to receive at least secondary treatment. However, Clean Water Act Section 301(h), sometimes referred to as the “ocean waiver” provision of the Clean Water Act, gives the EPA Administrator (with the concurrence of the Regional Water Quality Control Board (RWQCB)) the authority to grant a waiver from otherwise applicable secondary treatment requirements for suspended solids (SS), biochemical oxygen demand (BOD), and pH. In this case, such a waiver would authorize the City of San Diego to continue to discharge effluent receiving less than full secondary treatment in terms of suspended solids (SS) and biochemical oxygen demand (BOD). Secondary treatment would result in removal of 85% of both SS and BOD. The City’s proposed limits under the waiver would be 80% removal of SS and 58% removal of BOD. Secondary treatment waivers are jointly issued by EPA and the RWQCB, and the waivers need to be renewed every five years.

In reviewing past secondary treatment waiver and waiver renewal requests for the Cities of San Diego, Morro Bay, and Goleta, and Orange County,<sup>1</sup> the Commission has generally concurred with consistency certifications and found no conflict between such waivers and the applicable water quality and marine resource policies of the Coastal Act, especially when: (1) adequate monitoring is in place (stringent monitoring is required for dischargers receiving waivers); and (2) EPA and the appropriate RWQCB have determined that the discharger’s effluent complies with the applicable Clean Water Act and Ocean Plan requirements. More recently, Morro Bay, Goleta, and Orange County have committed to upgrade to secondary, although interim waivers may still be needed before secondary treatment is fully

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<sup>1</sup> See pages 17-1915-18 of this report for a fuller discussion of past Commission reviews of such waivers.

implemented. Thus, in California, the City of San Diego is the only municipal ocean discharger of wastewater that has not either achieved or committed to implementing full secondary treatment.

In its review of the City of San Diego's last renewal of its secondary treatment waiver (CC-10-02), the Commission initially objected to the City's consistency certification, on April 8, 2002. The Commission's action occurred prior to RWQCB action on the waiver, and the Commission identified three areas of concern that it believed needed to be addressed in order for the discharges to be consistent with applicable Coastal Act policies: (1) reductions in permitted levels of mass emissions; (2) meaningful commitments for water reclamation; and (3) additional monitoring provisions.

Acting two days later, the RWQCB adopted several of the Commission's recommendations; the RWQCB reduced the total permitted mass emission loadings by 6.7% in the NPDES permit, and separate from the NPDES permit: (a) requested annual reports from its staff on the City's progress towards implementing water reclamation; and (b) instructed its staff to review (and prepare for future RWQCB adoption) modifications to the monitoring program, including specific provisions for deep ocean receiving stations, human pathogens, and long term trends.

The City petitioned for review of the RWQCB action by the State Water Resources Control Board (SWRCB). The City also resubmitted its consistency certification to the Commission (CC-28-02). On August 15, 2002, the SWRCB ordered the mass emission limits to be returned to the originally-drafted level (i.e., eliminating the 6.7% reduction for the first four years). The SWRCB found that the RWQCB had failed to justify reducing the mass emission limits.

The City then clarified that the consistency certification that the City had resubmitted to the Commission was for the waiver as modified and ordered by the SWRCB. On September 9, 2002, the Commission concurred with this resubmitted consistency certification (CD-028-02). The Commission found:

*Given the SWRCB analysis on the mass emission levels and the RWQCB measures to address water reclamation and future monitoring improvements, as well as the available monitoring evidence of the lack of adverse effects of past discharges on the marine environment and the continuation of the stringent monitoring throughout the term of the permit, the City's discharges would be consistent with the water quality, marine resources, commercial and recreational fishing, and public access and recreation policies (Sections 30230, 30231, 30234, 30234.5, 30213, and 30220) of the Coastal Act.*

For the current submittal, EPA's independent Technical Evaluation determined that San Diego's discharges continue to meet the applicable Clean Water Act standards for a waiver. On June 10, 2009, the RWQCB approved the waiver (in adopting Tentative Order No. R9-2009-0001 and NPDES Permit No. CA0107409). EPA's and the RWQCB's analyses further document that the discharges would meet California Ocean Plan standards for at least the 5-year life of the permit.

When the Commission reviewed the City's waiver request in 2002, the Commission expressed the need for more comprehensive and greater regional extent of monitoring. Since 2002 the City's has greatly expanded its monitoring program, including extensive regional monitoring, as well as adding new efforts such as deep water monitoring in the underwater canyons in the greater project area. These newer efforts, which are further detailed on pages ~~8-136-14~~, include: (1) Core Monitoring; (2) Strategic Process Studies; (3) Regional Monitoring; and (4) Plume Behavior Monitoring.

The Core Monitoring Program consists of five components: general water quality monitoring; bacteriological monitoring of shoreline, kelp bed, and offshore waters; sediment monitoring for grain size, chemistry, and benthic infauna community structure; monitoring for fish and megabenthic invertebrate communities, and contaminant body burdens of fishes; and monitoring of kelp bed canopy cover.

The Strategic Process Studies are designed to address specific research or management issues related to receiving water monitoring that are not addressed by core and regional monitoring elements; these studies are worked out in coordination with EPA and the RWQCB, on an annual basis.

The Regional Monitoring, also worked out in coordination with EPA and the RWQCB, is designed to maximize the efforts of all monitoring partners and scientific resources in the region, and is intended to provide a regional assessment of the impact of the discharge of municipal wastewater to the Southern California Bight, and to provide a more comprehensive picture of the ecological and statistical significance of monitoring results and determine cumulative impacts of various pollution sources.

In addition, in response to concerns over possible effects in the deep water canyons in the area, the City conducted a special monitoring study of the conditions of sediments and benthos in deep water (as deep as 542 meters) to look for potential impacts of the City's discharge. The concern expressed was that the canyons could be a major sink for the accumulation of sediments and other materials from a variety of point and non-point sources. In an effort to begin investigating such habitats, the City set up 16 monitoring stations for both the outfall, as well as the EPA designated disposal site (LA-5), at various depths in areas likely to be most susceptible to sediment accumulation. According to the RWQCB, the Preliminary summary report results indicate: "... no evidence of significant contaminant accumulation in these deeper habitats off San Diego that may have originated from the Point

Loma outfall, the LA-5 disposal site or other sources... [and that] [n]o chlorinated pesticides or PCBs were detected at any of the 16 sites.” Final study results will not be available until 2010.

Finally, with respect to monitoring, the City has also commenced a detailed plume monitoring study, designed to “... determine the behavior and dispersion of the Point Loma outfall plume using state-of-the-art methodology and equipment.” This plume study will:

*... address two primary concerns of operating the ocean outfall in its current configuration: (1) possible effects to beach and near-surface water quality and (2) its risk to the coastal marine environment. This study addresses beach and surface water quality concerns by determining whether the wastewater plume surfaces and encroaches upon beaches, and if so, the frequency of such behavior. It also supports efforts to address ecosystem concerns by determining the frequency of spatial occurrence (i.e. the temporal footprint) of the plume thereby helping to spatially focus ongoing and future biological monitoring programs.*

The result of this plume study will not be available before mid-2011.

For the following reason, the project as proposed is not consistent with the requirements of Sections 30230 and 30231 of the Coastal Act. Despite the City’s monitoring improvements, it is unrealistic to assume that disposal of more than 50 billion gallons of sewage that has not been treated to secondary standards (“partially treated sewage”) per year will have no adverse impacts. Moreover, gaps exist in the monitoring data, and a number of monitoring studies are incomplete at this time, including, in particular: (a) plume behavior monitoring, which is needed to accurately characterize and assess the impacts of the discharges; and (b) the Deep Benthic Synthesis Study, which is needed to document whether there are gradual, long-term adverse impacts on benthic organisms due to the loading of solids by the discharge. The final results of the plume behavior monitoring and deep benthic studies are not expected until Fall 2011 and mid-2010, respectively.

To conclude, due to the gaps in the monitoring, combined with the need to maintain, and where feasible, restore, the biological productivity and the quality of coastal waters in a manner that will maintain optimum populations of marine organisms, the Commission finds that the City needs to continue its ongoing efforts to reduce the volume of partially treated sewage discharged from the Point Loma plant by investigating the potential for greater wastewater reclamation and recycling and implementing available options. Thus, in order to bring the project into conformity with Sections 30230 and 30231 of the Coastal Act, the following condition is needed:

**Condition**

**Wastewater Reclamation and Recycling Opportunities Study.** The City will return for a public hearing before the Coastal Commission in (approximately) two years when its study of Wastewater Reclamation and Recycling Opportunities<sup>2</sup> is completed and the findings and recommendations have been documented in a report, and inform the Commission how the City intends to implement the recommendations in the resulting report.

Thus, while the City has improved its monitoring efforts since the last Commission review in 2002, and the monitoring results that are available for the past seven years do not contradict the City's claim that the discharges comply with the applicable Clean Water Act tests, the City nevertheless needs to continue its ongoing efforts to reduce the volume of effluent from the Point Loma plant by investigating the potential for greater wastewater reclamation and recycling and implementing available options, in order to bring the project into conformity with Sections 30230 and 30231 of the Coastal Act. The Commission concludes that, only as conditioned, would the City's discharges under the renewal of the secondary treatment waiver be consistent with the water quality, marine resources, commercial and recreational fishing, and public access and recreation policies (Sections 30230, 30231, 30234, 30234.5, 30213, and 30220) of the Coastal Act.

~~Thus, the City has extensively improved its monitoring efforts since the last Commission review in 2002, and the monitoring results for the past seven years support the City's claim that the discharges comply with secondary treatment waiver requirements and California Ocean Plan standards, which contain policies comparable to the marine resource, fishing, and recreation protection policies of the Coastal Act. The stringent monitoring as required under Section 301(h) will be continued. The City has also upgraded its facilities, improved wastewater reclamation facilities, and maintained mass emission levels below the levels initially required recommended by the Commission and required by the RWQCB (prior to SWRCB reinstatement of the higher permit levels). Given all these factors and requirements,~~

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<sup>2</sup> This study refers to the City's Cooperative Agreement with San Diego Coastkeeper and the San Diego Chapter of Surfrider Foundation, approved on February 18, 2009, which provides: "The City shall, in coordination with Coastkeeper and Surfrider, prepare and execute a Scope of Work for the preparation of a City-wide assessment of its wastewater collection and treatment system. The goal of the Study shall be to identify opportunities within the City's system to maximize recycling and reclamation of wastewater for potable and non-potable uses. The Scope of Work shall at a minimum include a review of existing and currently proposed infrastructure, discussion of how much wastewater can feasibly be diverted from the Point Loma Wastewater Treatment Plant for recycling system-wide, an assessment of potential costs of implementing any opportunities explored and corresponding cost savings of implementing secondary treatment standards at the Point Loma Wastewater Treatment Plant, and consideration of how such recycling and reclamation opportunities compare to the anticipated cost and availability of imported water." (See Cooperative Agreement, Section 1.1 (Exhibit 15)).

~~the City's discharges under the renewal of the secondary treatment waiver would be consistent with the water quality, marine resources, commercial and recreational fishing, and public access and recreation policies (Sections 30230, 30231, 30234, 30234.5, 30213, and 30220) of the Coastal Act.~~

## **STAFF SUMMARY AND RECOMMENDATION:**

### **I. Staff Summary – Project Description and Background**

**A. Project Description.** The City of San Diego (“City”) has requested a waiver under Section 301(h) of the Clean Water Act (the Act), 33 U.S.C. Section 1311(h), from the secondary treatment requirements contained in Section 301(b)(1)(B) of the Act, 33 U.S.C. Section 1311(b)(1)(B). The waiver is being sought for the Point Loma Wastewater Treatment Plant (WTP) and Outfall, which discharges 4.5 miles from Point Loma (Exhibit 1). The waiver would allow the discharge of wastewater receiving less-than-secondary treatment into the Pacific Ocean. The City has been operating under a “special exception” to the 301(h) program, granted when Congress amended the Clean Water Act by adding to it Section 301(j)(5). That section allowed the City to apply for a waiver after the deadline for such applications had passed (it also contained substantive requirements, which are discussed below). The City applied for the waiver and subsequent renewals in a timely manner, initially in 1995, and for renewals in 2001 and 2007.

The Point Loma WTP, which serves the 450 sq. mi. Metropolitan San Diego area,<sup>3</sup> is located near the southern tip of Point Loma, and discharges wastewater from the City of San Diego through the Point Loma ocean outfall (PLOO) at a distance 4.5 miles from shore, west of Point Loma, in approximately 100 meters of water. The outfall terminates with a wye (Y-shaped) diffuser with two 2,496 foot long diffuser legs. The diffuser has 416 discharge ports (208 on each leg) and the zone of initial dilution (ZID) extends 93.5 meters (307 feet) on either side of the PLOO diffuser legs. The RWQCB, with assistance from the SWRCB, has established a minimum initial dilution factor for this permitting effort of 204:1. The sewer system also includes two pump stations, two water reclamation plants (WRPs) (North City and South Bay WRPs), and the Metro Biosolids Center at Marine Corps Air Station Miramar (Exhibit 2). Existing wastewater flows in recent years (2005-2007) have been approximately 160-185 million gallons per day (MGD) (average flows). Projected flows for the year 2014 (the end of the 5-year permit) are estimated at 202 MGD. System capacities are 240 MGD (average) and 432 MGD (peak wet weather flow).

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<sup>3</sup> The “Metro System” (Exhibit 2) includes the City and 15 participating agencies in the region. City flows account for 70% of the total flows.

The project service area and facilities are further described on pages 11-14 of EPA's Tentative Decision Document (Exhibit 12). This description notes a number of upgrades the City has made to the treatment system since the previous waiver was granted in 2002, including:

*There have been improvements to Metro System facilities since the existing federal NPDES permit became effective in 2003. These include bringing the South Bay Water Reclamation Plant and recycled water users online within the service area of the South Bay Water Reclamation Plant and Ocean Outfall, and adding recycled water users within the North City Water Reclamation Plant service area. Figure A-2 presents a schematic of existing Metro System treatment and solids handling facilities which include the: Point Loma Wastewater Treatment Plant and Ocean Outfall, North City Water Reclamation Plant, South Bay Water Reclamation Plant and Ocean Outfall, and the Metro Biosolids Center. Waste solids from the South Bay Water Reclamation Plant (WRP) are conveyed to Point Loma WTP for treatment. Waste solids from Point Loma WTP and North City WRP are conveyed to the Metro Biosolids Center for dewatering and disposal.*

The City has also strengthened its monitoring program since the previous waiver was granted in 2002, including:

***D. Receiving Water Monitoring*** [<sup>4</sup>]

***1. Core Monitoring Program for Surface Water***

*A monitoring program at the current discharge site has existed since 1991 and has focused on physical, chemical, and biological patterns in the region. The monitoring program underwent significant revision in 2003 to reallocate the level of effort that was in place at the time, in order to address crucial processes not addressed by earlier monitoring programs and provide a regional framework for interpreting discharge-related effects. The existing monitoring program reflects the principles expressed in the "Model Monitoring Program for Large Ocean Dischargers in Southern California" (SCCWRP, 2002). Since 2003, the following three components have constituted the Discharger's receiving water monitoring program: (1) Core Monitoring; (2) Strategic Process Studies; and (3) Regional Monitoring. These three components are needed to evaluate compliance with the permit, federal 301(h) decision criteria, and State water quality standards; and to assess the effects of the discharge on the marine environment.*

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<sup>4</sup> Source: RWQCB Fact Sheet, pp. F-46 to F-49 (Exhibit 11) (Note: Monitoring stations are shown in Exhibits 3-5.)



*There are five components to the Core Monitoring Program: general water quality monitoring; bacteriological monitoring of shoreline, kelp bed, and offshore waters; sediment monitoring for grain size, chemistry, and benthic infauna community structure; monitoring for fish and megabenthic invertebrate communities, and contaminant body burdens of fishes; and monitoring of kelp bed canopy cover.*

***a. General Water Quality***

*The offshore and kelp bed water quality sampling program is designed to help evaluate the fate of the wastewater plume under various conditions and to determine if the water quality objectives contained in the Ocean Plan are being achieved in the receiving water. Salinity, temperature, density, pH, transmissivity, dissolved oxygen, and chlorophyll a are monitored throughout the entire water column quarterly at **[36 offshore stations] and five times per month<sup>5</sup>** at eight kelp bed stations. Ammonium is monitored at those stations which are located within State jurisdictional waters, on a quarterly basis and at the same discrete depths specified for bacterial monitoring. General water quality monitoring requirements have been carried over from the previous Order. [Emphasis added]*

***b. Microbiological***

*Bacteria indicator sampling is required to help track the wastewater plume in federal and State offshore waters and evaluate compliance with recreational water quality standards in State waters within three nautical miles of the shoreline. In federal and State offshore waters, the nature and extent of primary contact recreational use in federal waters is noted and reported. **A grid of 36 offshore stations is monitored quarterly for enterococcus. Eight kelp bed stations and eight shoreline stations are monitored five times per month for enterococcus, total coliform, and fecal coliform.** At offshore and kelp bed stations, these parameters are monitored in the water column at fixed intervals. At shoreline stations, these parameters are monitored in the surf zone using grab samples. General microbiological monitoring requirements have been carried over from the previous Order. [Emphasis added]*

***c. Sediment***

*The physical and chemical properties of sediments and the biological communities that live in or on these sediments are monitored to evaluate potential effects of the PLOO discharge and compliance with narrative water quality standards in the Ocean Plan. The core sediment monitoring program is designed to assess spatial and temporal trends. **A core set of 12 to 22 stations are monitored twice each year, in January and July, using grab samples.** Twelve primary stations are located along the 98-meter depth contour and 10 secondary stations are located along the 88-meter*

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<sup>5</sup> Emphasis added in bold. Number of stations missing in the draft permit text was inserted in brackets.

*and 116-meter depth contours. The requirement for sampling at the secondary stations can be relaxed by the Regional Water Board and USEPA to allow the Discharger to participate in Bight-wide regional monitoring efforts. For sediment chemistry, monitored parameters include sediment grain size, metals, PCBs and chlorinated pesticides, and PAHs. Benthic community structure is evaluated using separate grab samples, in January and July. General sediment monitoring requirements have been carried over from the previous Order. [Emphasis added]*

***d. Fish and Invertebrate***

*Epibenthic trawls at four trawl zone stations are used to assess the structure of demersal fish and megabenthic invertebrate communities and to evaluate compliance with narrative water quality standards in the Ocean Plan. Chemical analyses of fish tissues are performed annually on target species collected at or near the four trawl and two rig fishing stations. Species targeted are representative of those caught by recreational and/or commercial fishery activities in the region. Liver tissue is monitored at trawl stations and muscle tissue is monitored at rig fishing stations to assess the uptake of pollutants in fish species commonly consumed by humans in the region. The tissues are analyzed for lipids, metals, PCBs, and chlorinated pesticides. General fish and invertebrate monitoring has been carried over from the previous Order.*

***e. Kelp Bed Canopy***

*Annual kelp bed surveys are intended to assess the extent to which the discharge of wastes may affect the aerial extent and health of coastal kelp beds. This monitoring effort is conducted with other ocean dischargers in the San Diego Region and covers the entire San Diego Region coastline, from the international boundary to the San Diego Region/Santa Ana Region boundary. In each annual survey, the aerial extent of the various kelp beds are photographed and compared to previous surveys; further investigation is required if significant losses are observed to persist for more than one year. Kelp bed monitoring has been carried over from the previous Order.*

***E. Strategic Process Studies and Regional Monitoring Requirements***

*In addition to Core Monitoring activities, the Discharger is required to conduct Strategic Process Studies and participate in Regional Monitoring activities coordinated by the Southern California Coastal Water Research Project (SCCWRP). Strategic Process Studies are an integral part of the permit monitoring program and differ from other elements of the monitoring program (e.g., core monitoring, regional monitoring, other permit special studies). They are intended to be short-term and are designed to address specific research or management issues related to receiving water monitoring that are not addressed by core and regional monitoring elements. The scope of special studies is determined by the Discharger, in coordination with the Regional Water Board Executive Officer and USEPA. Each*

*year, the Discharger is required to submit proposals for strategic process studies for the following year's effort. **Detailed scopes of work for each study are provided by the Discharger and approved by the Executive Officer and USEPA, prior to study implementation.** [Emphasis added]*

*The intent of Regional Monitoring activities is to maximize the efforts of all monitoring partners using a more cost-effective monitoring design and best utilize the pooled scientific resources of the region. During these coordinated large-scale sampling efforts, the Discharger's sampling and analytical effort may be reallocated to provide a regional assessment of the impact of the discharge of municipal wastewater to the Southern California Bight. Anticipated modifications to the monitoring program will be coordinated so as to provide a more comprehensive picture of the ecological and statistical significance of monitoring results and determine cumulative impacts of various pollution sources. Under previous permits, the Discharger participated in regional monitoring efforts in 1994, 1998, 2003, and 2008. The Discharger provides its level of effort for Regional Monitoring for Executive Officer and USEPA approval, following the procedures and schedule established for approval of Strategic Process Studies.*

The City conducted a special monitoring study of the conditions of sediments and benthos in deep water (as deep as 542 meters) to look for potential impacts of the Point Loma WTP discharge. A summary of the results of the Deep Benthic Pilot Study is part of the City's NPDES application Attachment E (RWQCB files) Benthic Sediments and Organisms:

***Deep Benthic Pilot Study** Little is known about benthic conditions on the continental slope off southern California, although this region may be a major sink for the accumulation of sediments and other materials that may originate from a variety of point and non-point sources. In an effort to begin investigating such habitats as part of its enhanced ocean monitoring objectives for Valley located west of the City's monitoring region for the Point Loma outfall and an EPA designated disposal site. Sixteen sites were distributed at depths around 200, 300, 400 and 500m along four offshore transects and modified to target areas most susceptible to sediment accumulation. Sites were classified into three "classes" based on geographic location, sediment composition, and steepness of slope. Samples were collected at each site for assessment of both sediment quality (grain size, chemistry) and biotic (infaunal communities) conditions. Preliminary analyses of the sediment data have been completed (see below), while assessment of the associated infaunal communities is underway. The preliminary summary report for this project is included as Attachment E.4 of this appendix, while a final comprehensive report is expected to be completed by the end of 2008.*

*As part of the DBPS, benthic sediments were analyzed for grain size, total organic carbon, total nitrogen, total volatile solids, sulfides, trace metals, pesticides, and PCBs. Bottom water conditions were characterized based on CTD data. Preliminary results show no evidence of significant contaminant accumulation in these deeper habitats off San Diego that may have originated from the Point Loma outfall, the LA-5 disposal site or other sources. **No chlorinated pesticides or PCBs were detected at any of the 16 sites.** Sediment chemistries were closely linked to grain size compositions. Sediments sampled from the axial valley of the submarine canyon where materials are most likely to accumulate were much coarser and had correspondingly lower concentrations of metals and organic enrichment than sediments collected from the alluvial plain of the canyon and nearby shelf slope. Alluvial and deep sediments were organically enriched leading to low oxygen concentrations in the overlying water.<sup>6</sup> [Emphasis added]*

Finally, with respect to monitoring, the City has also commenced a detailed plume monitoring study, designed to "... determine the behavior and dispersion of the Point Loma outfall plume using state-of-the-art methodology and equipment." In designing this study, the City acknowledges that:

*The behavior of the Point Loma wastewater plume (wastefield) is not well known at present because it has not been purposefully mapped an adequate number of times to determine its behavior given the complex ocean conditions that exist off San Diego. Ocean conditions that force plume behavior off San Diego are known to vary seasonally and are affected by larger scale ocean circulation within the southern California borderlands, local wind patterns, and winds located as far south as southern Baja California.*

The City summarizes this plume study as follows:

*The purpose of the present project is to determine the behavior and dispersion of the Point Loma outfall plume using state-of-the-art methodology and equipment. The goals of this project are to address two primary concerns of operating the ocean outfall in its current configuration: (1) possible effects to beach and near-surface water quality and (2) its risk to the coastal marine environment. This study addresses beach and surface water quality concerns by determining whether the wastewater plume surfaces and encroaches upon beaches, and if so, the frequency of such behavior. It also supports efforts to address ecosystem concerns by determining the frequency of spatial occurrence (i.e. the temporal footprint) of the plume thereby helping to spatially focus ongoing and future biological monitoring programs.*

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<sup>6</sup> Note – Low oxygen conditions are typical of deep water sediments off Southern California.

*The work outlined here involves tracking the wastefield using an autonomous underwater vehicle (AUV) and modeling plume behavior both in the near and far fields off Point Loma. The ultimate goal is to track plume behavior over the range of observed ocean conditions an adequate number of times to support the prediction of plume behavior given the same conditions observed in the future. The modeling effort consists of coupling an EPA standard near-field model that describes the footprint, mixing and rising of the buoyant plume within a kilometer or two of the outfall to a regional model of ocean circulation to estimate plume behavior in the far field (tens to over a hundred kilometers from the outfall). The end-product of this work will be a statistical description of plume behavior over the range of ocean conditions off Point Loma and a coupled dynamical model of plume behavior that would facilitate real-time prediction of plume dispersion based on ocean current and temperature data telemetered from a sensor array located over the outfall. In other words, possible plume surfacing events and shoreline incursions could be known in near real time.*

*The work outlined here represents the second phase of work intended to determine plume behavior. The first phase, monitoring of ocean circulation and temperature profiles in the vicinity of the Point Loma outfall, began in 2006 as a collaborative effort between the City of San Diego Ocean Monitoring Program (Metropolitan Wastewater Department) and the Scripps Institution of Oceanography. The AUV and modeling work outlined below will be supported by ongoing observations of ocean currents and temperature as well as high frequency (HF) radar observations. High frequency radar supports estimation of surface current fields and is therefore useful for tracking sewage wastefields that have surfaced as well as possibly contaminated buoyant plumes from terrestrial surface runoff or outflows from rivers or bays.*

The result of this plume study will not be available before mid-2011.

For the 5 year term of the NPDES permit, the City proposes the following system improvements (EPA TDD, p. 14 (Exhibit 12)):

*During the next 5-year permit cycle, the applicant has proposed the following improvements to the Metro System. Volume III, Large Applicant Questionnaire section II.A.2, of the application. These improvements are: (1) the ongoing program to bring additional recycled water users online to reduce dry-weather North City WRP flows discharged downstream to the Point Loma WTP and PLOO and South Bay WRP flows discharged to the SBOO; and (2) effluent disinfection provided by the installation and implementation (operation) of prototype effluent disinfection facilities at the Point Loma WTP. Prototype effluent disinfection facilities have been installed at the Point Loma WTP to allow the discharge to comply with recreational body-contact bacteriological standards throughout the water column (ocean surface*

*to ocean bottom) in all State-regulated waters (within three nautical miles of the coast). The City will perform and complete follow-up studies to assess the need for refinements or modifications to prototype disinfection facilities or operations. The City is proposing to implement effluent disinfection at the Point Loma WTP to achieve a 2.1 logarithm (approximately 99%) reduction in pathogen indicator organisms using a 7 mg/l dose rate of a 12 percent sodium hypochlorite solution in the effluent channel. (For reference, 1 milligram per liter is 1 part per million.) The application projects that the sodium hypochlorite solution will be entirely consumed by effluent chlorine demand during outfall transport, allowing the Point Loma discharge to maintain a zero chlorine residual as the effluent enters the outfall diffuser. The City may propose future modification of the prototype disinfection facilities or operations based on additional studies and following approval by the Regional Water Board and EPA.<sup>7</sup>*

*As documented in Volume III, Large Applicant Questionnaire section II.A.3, of the application, the City has constructed 45 mgd of recycled water treatment capacity; during the period of the existing permit, the applicant has consistently achieved 80% removal of TSS and 58% removal of BOD; and reduced TSS mass emissions during the period of the 301(h) modification (in Tables II.A-3 and II.A-4 and Figure II.A-1, Volume III of the application). Except for a slight reduction in year five of the renewed permit, the City is not requesting any change in the mass emission rate effluent limits for TSS, the concentration effluent limit for TSS, or the percent removal effluent limits for TSS and BOD, from those in the existing permit (in Tables II.A-2 and II.A-5, Volume III of the application). “System-wide” percent removal is computed as specified in Addendum No. 1 to Order No. R9-2002-0025, NPDES No. CA0107409. Tables II.A-3 and II.A-4 include the contribution from South Bay WRP which is neither identified in amended Order No. R9-2002-0025, nor included in the computation of “system-wide” percent removal.*

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<sup>7</sup> For further background, the RWQCB Fact Sheet notes:

*On November 13, 2007, the Discharger submitted a request to the Regional Water Board to initiate operation of prototype effluent disinfection facilities to achieve compliance with bacteriological water quality standards in State waters. On August 13 2008, the Regional Water Board approved modifications associated with operation of the Discharger’s proposed prototype effluent disinfection facilities at Point Loma WTP. The Discharger’s 2007 301(h) application is based on an improved discharge, as defined at 40 CFR 125.58(i), and incorporates effluent disinfection to achieve these standards prior to permit reissuance.*

EPA estimates past and projected (for the 5-year life of the permit) flows as follows (TDD Table 1):

*Table 1. Actual and projected annual average and maximum daily/peak hour flows (mgd) for the Point Loma Ocean Outfall from 2001 through 2014.*

Year	Observed Flows		Project Flows	
	Annual Average Flow <sup>1</sup>	Maximum Daily Flow	Projected Annual Average Flow <sup>2</sup>	Maximum Projected Peak Hour Flow <sup>3</sup>
2001	175	222	---	---
2002 <sup>4</sup>	169	189	---	---
2003	170	223	---	---
2004	174	295	---	---
2005	183	325	---	---
2006	170	224	---	---
2007	161	206	---	---
2008	162 <sup>5</sup>	233 <sup>5</sup>	191	458 <sub>6</sub>
2009	---	---	192	463 <sub>6</sub>
2010	---	---	193	467 <sub>6</sub>
2011	---	---	194	471 <sub>6</sub>
2012	---	---	197	476 <sub>6</sub>
2013	---	---	199	481 <sub>6</sub>
2014	---	---	202	486 <sub>6</sub>

<sup>1</sup> Data from monthly reports submitted to the Regional Water Board and EPA for 2001-2008. Maximum daily flow is the highest daily PLOO flow observed during the listed year.

<sup>2</sup> Average annual PLOO flow projections based on Metro System flow projections for long-term facilities planning. The flow projections for long-term facilities planning are conservative (overestimates that employ a factor of safety) to ensure that adequate future system capacity is maintained. Average annual PLOO flows will vary depending on hydrologic conditions, recycled water demands, and SBOO flows. These approximations are based on average annual recycled water use in the North City WRP service area of 7,210 AFY [Acre-Feet/Year] in 2008, 7,760 AFY by 2010, 8,260 AFY by 2012, linearly increasing beyond 2012 to 9,970 AFY (8.9 mgd) by 2027. Estimates are also based on combined South Bay WRP reuse and SBOO flows of 6,730 AFY in 2008, 6,930 AFY in 2010, 7,490 AFY in 2012, linearly increasing beyond 2012 to 8,850 AFY (7.9 mgd) by 2027. Estimates are also based on net annual Metro System flow reductions of 3.0 mgd from recycled water use from Padre Dam MWD, Santee WRP, and Otay Water District WRF.

<sup>3</sup> Maximum projected peak-hour wet-weather flow for a 10-year return period, per MWWD [Metropolitan Wastewater Dept.] System wide Planning Design Event Analysis for Peak Flows and Volumes - PS1 and PS2, April 24, 1997. Values assume that no recycled water use occurs during a wet weather event. Maximum projected peak-hour flows represent short-term peak flows for purposes of assessing the ability of Metro System collection facilities to handle short-term instantaneous peak flows. Actual maximum peak hour flows in any year are likely to be significantly less than this projected once-in-10-year event.

<sup>4</sup> South Bay WRP is brought online.

<sup>5</sup> Preliminary values for January 1 through September 30, 2008.

<sup>6</sup>The City is reassessing peak hour wet-weather flow projections. As part of this assessment, the City is evaluating the need to add equalization storage at Pump Station Nos. 1 and 2 (or implementing alternative peak-flow management options) to increase the ability of Metro System conveyance facilities to handle potential maximum instantaneous peak flows.

**B. Treatment Levels.** Secondary treatment is defined in Clean Water Act implementing regulations (40 CFR Part 133) in terms of effluent quality for suspended solids (SS), biochemical oxygen demand (BOD) and pH. The secondary treatment requirements for SS, BOD and pH are as follows:

**SS and BOD:**

- (1) The 30-day average shall not exceed **30 mg/l** (milligrams per liter).
- (2) The 7-day average shall not exceed **45 mg/l**.
- (3) The 30-day average percent removal **shall not be less than 85%**;

**pH:** The effluent limits for pH shall be maintained within the limits of 6.0 to 9.0 pH units. (Note: the City is not seeking a waiver from this requirement.)

State water quality standards (i.e., the **California Ocean Plan**) **require removal of 75% of SS**. The Ocean Plan does not have an effluent limitation for BOD; the comparable standard is for dissolved oxygen, and the Plan requires that “dissolved oxygen shall not at any time be depressed more than 10% from that which occurs naturally as a result of the discharge of oxygen-demanding waste materials.”

The special legislation created for the City’s application for a secondary treatment waiver (Ocean Pollution Reduction Act of 1994 (OPRA)/CWA Section 301(j)(5)/Public Law 103-431) requires:

1. **80% removal of TSS** (monthly average);
2. **58% removal of BOD** (annual average);
3. 45 MGD of water reclamation capacity by the year 2010; and
4. Reduction of TSS during the 5-year period of permit modification (EPA has interpreted this standard to require reduction of TSS from 15,000 to 13,600 metric tons/yr).

33 U.S.C. § 1311(j)(5)(B) & (C).



The following table compares the various statutory requirements:

**Table 1. Comparison of treatment removal requirements. [Source: EPA Tentative Decision Document]**

Requirement	Suspended Solids Removal	Biochemical Oxygen Demand Removal	pH Limitation
Primary	30% as 30-day average	30% as 30-day average	6-9
California Ocean Plan	75% as 30-day average	No Requirement	6-9
OPRA [only applicable to San Diego discharges]	80% as 30-day average	58% as annual average	
Secondary	85% as 30-day average	85% as 30-day average	6-9

Thus, the City is requesting a variance from secondary treatment standards for BOD and SS. Under this waiver, the City’s advanced primary system must remove 80% of SS, and 58% of BOD. The City’s performance in recent years has achieved averaged removal rates of 89% for SS, and 68% for BOD. Recent suspended solids loadings have been less than 10,500 metric tons/yr. (see Table 9, pages 372-383). The City is not requesting a waiver of pH requirements.

**B. Procedures.** Secondary treatment waivers are reviewed by EPA and the RWQCB, with EPA retaining the final decision authority. Under the 301(h) waiver process, once the application is made, EPA performs an independent technical evaluation and, if the discharges meets all Clean Water Act 301(h) waiver requirements, EPA issues a tentative decision document (TDD). (EPA’s TDD, issued December 2, 2008, is attached as Exhibit 12.) This is followed by RWQCB and Coastal Commission public hearings and actions (which can occur in either order), and after these and other agency reviews are finalized (including U.S. Fish and Wildlife Service and National Marine Fisheries Service reviews under the Endangered Species and Magnusen-Stevens Acts), EPA issues its final decision. On June 10, 2009, the RWQCB approved the waiver in its adoption of Tentative Order No. R9-2009-0001 and Draft NPDES Permit No. CA0107409. EPA can not grant the waiver until after the RWQCB approves a Draft NPDES permit and the Commission concurs with a consistency certification for the waiver (or (a) if the RWQCB objects, the State Water Resources Control Board approves the permit on appeal; and/or (b) if the Commission objects, the Secretary of Commerce overrides the Commission’s objection on appeal).

**C. History of San Diego Waiver.** On September 27, 1995, after a Commission public hearing, and after which the Commission endorsed the staff’s recommended approach, the Commission staff concurred with a previous submittal from the City of San Diego of a “No Effects” letter (in lieu of a consistency certification) for its first EPA-issued secondary treatment waiver (NE-94-95). That matter was reviewed as an administrative item due to

unusual circumstances and history surrounding the waiver. The Commission normally reviews secondary treatment waivers and reissuances as consistency certifications, as is the case for the subject reissuance.

On April 8, 2002, the Commission objected to the City's consistency certification for the City's waiver reissuance (CC-10-02). The Commission determined that the activity was not consistent with the California Coastal Management Program (CCMP), and that in order to bring the activity into conformance with the CCMP, the City would need to modify the activity. The Commission identified the following three areas of concern that needed to be addressed: (1) reductions in permitted levels of mass emissions; (2) commitments for water reclamation; and (3) additional monitoring provisions. More specifically, the Commission requested:

*1. meaningful reductions in rates of annual mass emissions (i.e., the proposed EPA/RWQCB permit limitations of 15,000 metric tons (MT) per year for the first four years, and 13,599 MT for the fifth year, are set unrealistically high, compared to current discharges of approximately 9,000 MT/yr.);*

*2. commitments for actual reclamation (as opposed to the requirements under the Ocean Pollution Reduction Act of 1994 (OPRA) to develop 45 MGD of reclamation capacity); and*

*3. additional monitoring measures, consisting of:*

*a. Extending the Coastal Ocean Dynamics Applications Radar (CODAR) monitoring developed at Imperial Beach to the Point Loma area.*

*b. Adding a monitoring station in La Jolla Canyon.*

*c. Incorporating remote sensing into the monitoring program.*

On April 10, 2002, the Regional Water Quality Control Board (RWQCB), San Diego Region, adopted modified permit conditions and addressed these three areas of Commission concern in the following manner:

(1) the RWQCB modified the permit to reduce total allowable mass emission loadings by 6.7%, from 15,000 metric tons per year (MT/yr.) to 13,995 MT/yr. for the first four years (with the fifth year remaining at 13,599 MT/yr.);

(2) the RWQCB requested annual reports from the RWQCB's Executive Officer on the City's progress towards implementing water reclamation, and noted that the RWQCB could impose future reclamation requirements if adequate progress is not forthcoming;

(3) the RWQCB instructed its staff to review and prepare for future RWQCB adoption modifications to the monitoring program, including specific provisions for deep ocean receiving stations, human pathogens, and long term trends.

In separate proceedings the City appealed both the Commission and RWQCB actions. The City also resubmitted its consistency certification to the Commission (CC-28-02). On May 8, 2002, the City appealed the Coastal Commission's consistency certification objection (CC-10-02) to the Secretary of Commerce. On May 9, 2002, the City petitioned for review of the RWQCB's NPDES permit action modifying the mass emission limits by the State Water Resources Control Board (SWRCB)<sup>8</sup>. The City and the Commission staff agreed to "stay" any further deliberations in the Secretary of Commerce appeal, pending Commission reconsideration of the matter once the SWRCB acted. On August 15, 2002, the SWRCB ordered the mass emission limits to be returned to the originally-drafted 15,000 MT/yr. (for the first four years). The SWRCB concluded that the RWQCB had "... failed to make findings, either in its order or during its deliberations, that justify reducing the mass emission limits for TSS from 15,000 metric tons per year to 13,995 metric tons per year in the waste discharge requirements." Accordingly, the City clarified that its resubmitted consistency certification was for the waiver as modified and ordered by the SWRCB. On September 9, 2002, the Commission concurred with this resubmitted consistency certification (CC-028-02).

Finally, for the current waiver, on August 13, 2009, the Commission objected to the City of San Diego's consistency certification (CC-043-09). In lieu of actively pursuing an appeal to the Secretary of Commerce, which is a procedure available to applicants who have submitted consistency certifications to which the Commission has objected, the City has elected to resubmit its consistency certification to the Commission. The Commission's Executive Director waived any applicable time requirements for such resubmittal.

**D. Previous Commission Reviews of Other California Waivers.** In 1979, and 1983-1985, the Commission reviewed a number of consistency certifications for secondary treatment waiver applications, under the federal consistency provisions of the Coastal Zone Management Act ("CZMA"), and EPA ultimately granted many of these waivers. During these reviews the Commission expressed concern over the need for treatment meeting the *equivalent* of secondary treatment with respect to removal of toxics. At that time, the Commission consciously adopted a neutral position on the waivers. Since a position of "neutrality" is not an action that is recognized under CZMA regulations, the Commission's concurrence in the waivers was presumed pursuant to the CZMA and its administrative regulations. 16 USC § 1456(c)(3)(A); 15 CFR § 930.62(a).

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<sup>8</sup> Only the first of the above RWQCB measures was an actual permit modification (i.e., the second and third measures were outside the scope of the permit).

Section 301(h) waivers are only valid for 5 years, although EPA commonly administratively extends the time during processing of renewal applications. Only a few of the initial round of waiver applicants continued to pursue waivers; by the mid-1990's the list was down to: Goleta, Morro Bay, and Orange County (CSDOC). On January 12, 2005, and January 8, 1997, the Commission concurred with Goleta's renewals (CC-13-02 and CC-126-96, respectively). On January 9, 2009, January 13, 1999, and January 12, 1993, the Commission concurred with Morro Bay's renewals (CC-007-06, CC-123-98 and CC-88-92, respectively). On March 10, 1998, the Commission concurred with Orange County's renewal (CC-3-98).

Morro Bay, Goleta, and Orange County have now all agreed to upgrade to secondary treatment, by 2012 (Orange Co.), 2014 (Goleta), and 2015 (Morro Bay). Goleta recently (May 29, 2009) submitted its latest (pending) waiver request (CC-032-09), as one more waiver is needed before it can fully implement secondary treatment. On July 17, 2002, Orange County agreed to pursue secondary treatment. Since 2004, Orange County has been operating under an EPA secondary permit and, because the plant does not yet achieve secondary treatment, a federal consent decree. EPA states that Orange County expects to meet the consent decree deadline for achieving full secondary treatment on or before December 31, 2012. Thus, the Commission should not expect to see any further Orange County consistency certifications for any more 301h waivers.

**E. Applicant's Consistency Certification.** The City of San Diego certifies that the proposed renewal of its 301(h) waiver by EPA complies with the federally approved California Coastal Management Program (CCMP) and will be conducted in a manner consistent with such program.

## **II. Staff Recommendation:**

The staff recommends that the Commission adopt the following motion:

~~**MOTION.**—I move that the Commission **concur** with the City of San Diego's consistency certification.~~

~~The staff recommends a **YES** vote on this motion. A majority vote in the affirmative will result in adoption of the following resolution:~~

~~**Concurrence**~~

~~—The Commission hereby **concurs** with the consistency certification made by the City of San Diego for the proposed waiver, finding that the waiver is consistent with the enforceable policies of the California Coastal Management Program.~~

**MOTION.** I move that the Commission **adopt** the revised findings in support of the Commission's action on October 7, 2009, concerning the City of San Diego's consistency certification for its continued operation of its Point Loma Wastewater Treatment Plant pursuant to a Clean Water Act section 301(h) secondary treatment waiver.

The staff recommends a **YES** vote on this motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the December, 2009, hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

The Commissioners voting on the prevailing side of the October 7, 2009, vote were: Commissioners Achadjian, Blank, Burke, Clark, Kram, Kruer, Sanchez, and Chair Neely.

**RESOLUTION TO ADOPT REVISED FINDINGS:**

The Commission hereby adopts the findings set forth below for its conditional concurrence with the above-referenced consistency certification, on the grounds that the findings support the Commission's decision made on October 7, 2009, and accurately reflect the reasons for it.

**III. Commission Action:**

On October 7, 2009, the Commission adopted the following motion:

**MOTION.** I move that the Commission **conditionally concur** with the City of San Diego's consistency certification.

The Commission's majority **YES** vote on this motion resulted in adoption of the following resolution:

**Conditional Concurrence**

The Commission hereby **conditionally concurs** with the consistency certification CC-056-09 made by the City of San Diego for the proposed waiver, finding that, if modified in accordance with the following condition, the project described therein would be consistent with the enforceable policies of the California Coastal Management Program.

**Condition**

**Wastewater Reclamation and Recycling Opportunities Study.** The City will return for a public hearing before the Coastal Commission in (approximately) two years when its study of Wastewater Reclamation and Recycling Opportunities<sup>9</sup> is completed and the findings and recommendations have been documented in a report and inform the Commission how the City intends to implement the recommendations in the resulting report.

**IV. Procedures**

**A. Conditional Concurrences.** Section 15 CFR § 930.4 of the Federal Consistency regulations provides, in part, that:

(a) Federal agencies, applicants, persons and applicant agencies should cooperate with State agencies to develop conditions that, if agreed to during the State agency's consistency review period and included in a . . . Federal agency's approval under Subparts D, E, F or I of this part, would allow the State agency to concur with the Federal action. If instead a State agency issues a conditional concurrence:

(1) The State agency shall include in its concurrence letter the conditions which must be satisfied, an explanation of why the conditions are necessary to ensure consistency with specific enforceable policies of the management program, and an identification of the specific enforceable policies. The State agency's concurrence letter shall also inform the parties that if the requirements of paragraphs (a)(1) through (3) of the section are not met, then all parties shall treat the State agency's conditional concurrence letter as an objection pursuant to the applicable Subpart and notify, pursuant to §930.63(e), applicants, persons and applicant agencies of the opportunity to appeal the State agency's objection to the Secretary of Commerce within 30 days after receipt of the State agency's conditional concurrence/objection or 30 days after receiving notice from the Federal agency that the application will not be approved as amended by the State agency's conditions; and

(2) The Federal agency (for Subpart C), applicant (for Subparts D and I), person (for Subpart E) or applicant agency (for Subpart F) shall modify the applicable plan, project proposal, or application to the Federal agency pursuant to the State agency's

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<sup>9</sup> This study refers to the City's Cooperative Agreement with San Diego Coastkeeper and the San Diego Chapter of Surfrider Foundation, approved on February 18, 2009, described further in Footnote 2, page 6, above, and attached as Exhibit 15.

conditions. The Federal agency, applicant, person or applicant agency shall immediately notify the State agency if the State agency's conditions are not acceptable; and

(3) The Federal agency (for Subparts D, E, F and I) shall approve the amended application (with the State agency's conditions). The Federal agency shall immediately notify the State agency and applicant or applicant agency if the Federal agency will not approve the application as amended by the State agency's conditions.

(b) If the requirements of paragraphs (a)(1) through (3) of this section are not met, then all parties shall treat the State agency's conditional concurrence as an objection pursuant to the applicable Subpart.

**B. Right of Appeal.** Pursuant to 15 CFR Part 930, Subpart H, and within 30 days from receipt of notice of a Commission conditional concurrence to which the City does not agree, the City may request that the Secretary of Commerce override this objection. In order to grant an override request, the Secretary must find that the proposed activity for which the City submitted a consistency certification is consistent with the objectives or purposes of the Coastal Zone Management Act, or is necessary in the interest of national security. A copy of the request and supporting information must be sent to the California Coastal Commission and the Environmental Protection Agency. The Secretary may collect fees from the City for administering and processing its request.

#### **HHV. Findings and Declarations:**

The Commission finds and declares as follows<sup>10</sup>:

##### **A. Water Quality/Marine Resources**

**1. Regulatory Framework.** EPA and the applicable RWQCBs regulate municipal wastewater outfalls discharging into the Pacific Ocean under NPDES permits issued pursuant to the federal Clean Water Act. As enacted in 1972, the Clean Water Act required secondary treatment for all wastewater treatment nationwide. Amendments to the Clean Water Act in 1977 provided for Section 301(h) (33 USC Section 1311(h)) waivers of the otherwise applicable requirements for secondary treatment for discharges from publicly owned treatment works into marine waters. Section 301(h) is implemented by EPA regulations set forth in 40 CFR Part 125, Subpart G.

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<sup>10</sup>These findings also hereby incorporate by reference Section I of the Staff Summary and Recommendation in which these findings appear, which section is entitled "Staff Summary – Project Description and Background."

Section 301(h) of the Clean Water Act provides that an NPDES permit that modifies the secondary treatment requirements may be issued if the applicant: (1) discharges into oceanic or saline, well-mixed estuarine waters; and (2) demonstrates to EPA's satisfaction that the modifications will meet those requirements specified in Section 301(h) (quoted in full below), including: (a) that the waiver will not result in any increase in the discharge of toxic pollutants or otherwise impair the integrity of receiving waters; and (b) that the discharger must implement a monitoring program for effluent quality, must assure compliance with pre-treatment requirements for toxic control, must assure compliance with water quality standards, and must measure impacts to indigenous marine biota. In California, the applicable water quality standards are embodied in the California Ocean Plan (summarized below).

While the State of California (through the SWRCB and RWQCBs) administers the NPDES permit program and issues permits for most discharges to waters within State waters, authority to grant a waiver and issue a modified NPDES permit under Section 301(h) of the Act is reserved by the Regional Administrator of EPA. Prior state (i.e., SWRCB or RWQCB) concurrence with the waiver is also required.

Section 307(f) of the federal CZMA (16 USC § 1456(f)) specifically incorporates all Clean Water Act-based requirements into the California Coastal Management Program (CCMP). Commission consistency certification review and concurrence is required for 301(h) waiver applicants, because EPA NPDES permits are listed in California's Coastal Management program as federal licenses or permits for activities affecting land or water uses in the coastal zone. In reviewing the proposed discharges, the Commission relies on the Clean Water Act and its implementing regulations, the California Ocean Plan, the Coastal Act (Chapter 3 policies), and California Water Code Section 13142.5 (incorporated into the Coastal Act by Section 30412(a)). These requirements, which are further described and summarized below, provide both specific numerical standards for pollutants, as well as general standards for protection of marine biological productivity.

**a. Clean Water Act/Section 301(h).** Implementation of the Clean Water Act in California, for the most part, has been delegated to the applicable RWQCB for issuance of NPDES permits. Under an MOA between EPA and the State of California, NPDES permits for secondary treatment waivers (regardless of location) are issued jointly by EPA and the applicable RWQCB. The Clean Water Act divides pollutants into three categories for purposes of regulation, as follows: (1) conventional pollutants, consisting of total suspended solids (TSS or SS); biochemical oxygen demand (BOD, a measure of the amount of oxygen consumed during degradation of waste); pH; fecal coliform bacteria; and oil and grease; (2) toxic pollutants, including heavy metals and organic chemicals; and (3) non-conventional pollutants (a "catch-all" category for other substances needing regulation (e.g., nitrogen and phosphorus, chlorine, fluoride)).



Guidelines adopted under Section 403 of the Clean Water Act (40 CFR Part 125.120-124, Subpart M, "Ocean Discharge Criteria") specify that beyond an initial mixing zone, commonly referred to as the zone of initial dilution (ZID), the applicable water quality standards must be met. The zone of initial dilution is the boundary of the area where the discharge plume achieves natural buoyancy and first begins to spread horizontally. Discharged sewage is mostly freshwater, so it creates a buoyant plume that moves upward toward the sea surface, entraining ambient seawater in the process. The wastewater/seawater plume rises through the water column until its density is equivalent to that of the surrounding water, at which point it spreads out horizontally.

Section 301(h) of the Clean Water provides for secondary treatment waivers under certain circumstances. The following requirements must be met for EPA to grant a secondary treatment waiver:

- (1) there is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 304(a)(6) of this Act;*
- (2) such modified requirements will not interfere, alone or in combination with pollutants from other sources, with the attainment or maintenance of that water quality which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population (BIP) of shellfish, fish and wildlife, and allows recreational activities, in and on the water;*
- (3) the applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable, and the scope of the monitoring is limited to include only those scientific investigations which are necessary to study the effects of the proposed discharge;*
- (4) such modified requirements will not result in any additional requirements on any other point or nonpoint source;*
- (5) all applicable pretreatment requirements for sources introducing waste into such treatment works will be enforced;*
- (6) in the case of any treatment works serving a population of 50,000 or more, with respect to any toxic pollutant introduced into such works by an industrial discharger for which pollutant there is no applicable pretreatment requirement in effect, sources introducing waste into such works are in compliance with all applicable pretreatment requirements, the applicant will enforce such requirements, and the applicant has in effect a pretreatment program which, in combination with the treatment of discharges*

*from such works, removes the same amount of such pollutant as would be removed if such works were to apply secondary treatment to discharges and if such works had no pretreatment program with respect to such pollutant;*

*(7) to the extent practicable, the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from nonindustrial sources into such treatment works;*

*(8) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;*

*(9) the applicant at the time such modification becomes effective will be discharging effluent which has received at least primary or equivalent treatment and which meets the criteria established under section 304(a)(1) of the Clean Water Act after initial mixing in the waters surrounding or adjacent to the point at which such effluent is discharged.*

*For the purposes of this subsection the phrase “the discharge of any pollutant into marine waters” refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines necessary to allow compliance with paragraph (2) of this subsection, and section 101(a)(2) of this Act. For the purposes of paragraph (9), “primary or equivalent treatment” means treatment by screening, sedimentation and skimming adequate to remove at least 30 percent of the biochemical oxygen demanding material and of the suspended solids in the treatment works influent, and disinfection, where appropriate. A municipality which applies secondary treatment shall be eligible to receive a permit pursuant to this subsection which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from any treatment works owned by such municipality into marine waters. No permit issued under this subsection shall authorize the discharge of sewage sludge into marine waters. In order for a permit to be issued under this subsection for the discharge of a pollutant into marine waters, such marine waters must exhibit characteristics assuring that water providing dilution does not contain significant amounts of previous discharged effluent from such treatment works. No permit issued under this subsection shall authorize the discharge of any pollutant into marine estuarine waters which at the time of application do not support a balanced, indigenous population of shellfish, fish and wildlife, or allow recreation in and on the waters or which exhibit ambient water quality below applicable water quality standards adopted for the protection of public water supplies, shellfish and wildlife, or recreational activities or such other standards necessary to assure support and*

*protection of such uses. The prohibition contained in the preceding sentence shall apply without regard to the presence or absence of a causal relationship between such characteristics and the applicant's current or proposed discharge. ...*

| In addition, as discussed on page [4416](#), Section 301(j)(5) of the Clean Water Act provides procedural and substantive requirements enabling the City of San Diego (only) to apply for a waiver and specifying that discharges must meet the following tests: 80% removal of TSS (monthly average); 58% removal of BOD (annual average); 45 MGD of water reclamation capacity by the year 2010; and reduction of TSS during the 5-year period of permit modification.

EPA's Tentative Decision Document dated December 2, 2008, evaluates the City's compliance with each of the above nine criteria (see EPA conclusions below). EPA's tentative decision is that the discharges meet each of the above criteria and the NPDES permit is eligible for reissuance. In addition, the RWQCB has evaluated the City's discharges and determined that they would comply with the applicable California Ocean Plan, other California requirements, and NPDES permit limitations.

**b. California Ocean Plan.** The California Ocean Plan was originally adopted by the SWRCB and approved by the EPA in June 1972, and is revised every three years. Among the California Ocean Plan requirements are the following water quality objectives (Chapter II) [note: the asterisks (\*) below refer the reader to Ocean Plan definitions in its Appendices (Exhibit 9)]:

*A. General Provisions*

*1. This chapter sets forth limits or levels of water quality characteristics for ocean\* waters to ensure the reasonable protection of beneficial uses and the prevention of nuisance. The discharge of waste\* shall not cause violation of these objectives.*

*2. The Water Quality Objectives and Effluent Limitations are defined by a statistical distribution when appropriate. This method recognizes the normally occurring variations in treatment efficiency and sampling and analytical techniques and does not condone poor operating practices.*

*3. Compliance with the water quality objectives of this chapter shall be determined from samples collected at stations representative of the area within the waste field where initial\* dilution is completed.*

*B. Bacterial Characteristics*

*1. Water-Contact Standards*

*Both the SWRCB and the California Department of Health Services (DHS) have established standards to protect water contact recreation in coastal waters from bacterial contamination. Subsection a of this section contains bacterial objectives adopted by the SWRCB for ocean waters used for water contact recreation. Subsection b describes the bacteriological standards adopted by DHS for coastal waters adjacent to public beaches and public water contact sports areas in ocean waters.*

...

## *2. Shellfish\* Harvesting Standards*

*a. At all areas where shellfish\* may be harvested for human consumption, as determined by the Regional Board, the following bacterial objectives shall be maintained throughout the water column:*

*(1) The median total coliform density shall not exceed 70 per 100 ml, and not more than 10 percent of the samples shall exceed 230 per 100 ml.*

## *C. Physical Characteristics*

*1. Floating particulates and grease and oil shall not be visible.*

*2. The discharge of waste\* shall not cause aesthetically undesirable discoloration of the ocean\* surface.*

*3. Natural\* light shall not be significantly\* reduced at any point outside the initial\* dilution zone as the result of the discharge of waste\*.*

*4. The rate of deposition of inert solids and the characteristics of inert solids in ocean\* sediments shall not be changed such that benthic communities are degraded\*.*

## *D. Chemical Characteristics*

*1. The dissolved oxygen concentration shall not at any time be depressed more than 10 percent from that which occurs naturally, as the result of the discharge of oxygen demanding waste\* materials.*

*2. The pH shall not be changed at any time more than 0.2 units from that which occurs naturally.*

*3. The dissolved sulfide concentration of waters in and near sediments shall not be significantly\* increased above that present under natural conditions.*

*4. The concentration of substances set forth in Chapter II, Table B, in marine sediments shall not be increased to levels which would degrade\* indigenous biota.*

*5. The concentration of organic materials in marine sediments shall not be increased to levels that would degrade\* marine life.*

*1. Nutrient materials shall not cause objectionable aquatic growths or degrade\* indigenous biota.*

...

#### *E. Biological Characteristics*

*1. Marine communities, including vertebrate, invertebrate, and plant species, shall not be degraded\*.*

*2. The natural taste, odor, and color of fish, shellfish\*, or other marine resources used for human consumption shall not be altered.*

*3. The concentration of organic materials in fish, shellfish\* or other marine resources used for human consumption shall not bioaccumulate to levels that are harmful to human health.*

#### *F. Radioactivity*

*1. Discharge of radioactive waste\* shall not degrade\* marine life.*

General requirements in the Ocean Plan include:

*A. Waste management systems that discharge to the ocean must be designed and operated in a manner that will maintain the indigenous marine life and a healthy and diverse marine community.*

*B. Waste discharged to the ocean must be essentially free of:*

*1. Material that is floatable or will become floatable upon discharge.*

2. *Settleable material or substances that may form sediments which will degrade benthic communities or other aquatic life.*

3. *Substances which will accumulate to toxic levels in marine waters, sediments or biota.*

4. *Substances that significantly decrease the natural light to benthic communities and other marine life.*

5. *Materials that result in aesthetically undesirable discoloration of the ocean surface.*

C. *Waste effluents shall be discharged in a manner which provides sufficient initial dilution to minimize the concentrations of substances not removed in the treatment.*

D. *Location of waste discharges must be determined after a detailed assessment of the oceanographic characteristics and current patterns to assure that:*

1. *Pathogenic organisms and viruses are not present in areas where shellfish are harvested for human consumption or in areas used for swimming or other body-contact sports.*

2. *Natural water quality conditions are not altered in areas designated as being of special biological significance or areas that existing marine laboratories use as a source of seawater.*

3. *Maximum protection is provided to the marine environment.*

E. *Waste that contains pathogenic organisms or viruses should be discharged a sufficient distance from shellfishing\* and water-contact sports areas to maintain applicable bacterial standards without disinfection. Where conditions are such that an adequate distance cannot be attained, reliable disinfection in conjunction with a reasonable separation of the discharge point from the area of use must be provided. Disinfection procedures that do not increase effluent toxicity and that constitute the least environmental and human hazard should be used.*

In addition, the Ocean Plan contains "Table A" effluent limitations for major wastewater constituents and properties, "Table B" limitations that provide maximum concentrations for toxic materials that may not be exceeded upon completion of initial dilution, and other standards. Table A and B limitations are contained in Exhibit 10.

**c. Coastal Act Policies.** The Coastal Act contains policies protecting water quality and marine resources. Section 30230 of the Coastal Act provides:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 provides:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

In addition to these resource protection policies, Section 30412 addresses the Commission's relationship with the SWRCB and RWQCBs; Section 30412 provides (in relevant part):

*(a) In addition to Section 13142.5 of the Water Code, this section shall apply to the commission and the State Water Resources Control Board and the California regional water quality control boards.*

*(b) The State Water Resources Control Board and the California regional water quality control boards are the state agencies with primary responsibility for the coordination and control of water quality. The State Water Resources Control Board has primary responsibility for the administration of water rights pursuant to applicable law. The commission shall assure that proposed development and local coastal programs shall not frustrate this section. The commission shall not, except as provided in subdivision (c), modify, adopt conditions, or take any action in conflict with any determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality or the administration of water rights.*

*Except as provided in this section, nothing herein shall be interpreted in any way either as prohibiting or limiting the commission, local government, or port governing body from exercising the regulatory controls over development pursuant to this division in a manner necessary to carry out this division.*

Finally, Section 13142.5 of the Water Code, which is referenced in Section 30412 above, provides:

*In addition to any other policies established pursuant to this division, the policies of the state with respect to water quality as it relates to the coastal marine environment are that:*

*(a) Waste water discharges shall be treated to protect present and future beneficial uses, and, where feasible, to restore past beneficial uses of the receiving waters. Highest priority shall be given to improving or eliminating discharges that adversely affect any of the following:*

- (1) Wetlands, estuaries, and other biologically sensitive sites.*
- (2) Areas important for water contact sports.*
- (3) Areas that produce shellfish for human consumption.*
- (4) Ocean areas subject to massive waste discharge.*

*Ocean chemistry and mixing processes, marine life conditions, other present or proposed outfalls in the vicinity, and relevant aspects of areawide waste treatment management plans and programs, but not of convenience to the discharger, shall for the purposes of this section, be considered in determining the effects of such discharges...*

**2. EPA Evaluation of the City of San Diego's Discharges.** EPA has conducted an independent technical evaluation analyzing San Diego's compliance with the 301(h) Clean Water Act requirements and other criteria discussed above. This tentative evaluation, dated December 2, 2008 (Exhibit 12), includes the following EPA findings:

#### ***SUMMARY OF FINDINGS***

*Based upon review of the data, references, and empirical evidence furnished in the application and other relevant sources, EPA Region 9 makes the following findings with regard to the statutory and regulatory criteria:*

- 1. The applicant's proposed discharge will comply with primary treatment requirements. [CWA section 301(h)(9); 40 CFR 125.60]*
- 2. The applicant's proposed 301(h)-modified discharge will comply with the State of California's water quality standards for natural light and dissolved oxygen. (A modification for pH is not requested.) The applicant has sent a letter to the San Diego Regional Water Quality Control Board (Regional Water Board) requesting determination that the proposed discharge complies with applicable State law*



*including water quality standards. In 1984, a Memorandum of Understanding was signed by EPA Region 9 and the State of California to jointly administer discharges that are granted modifications from secondary treatment standards. The joint issuance of a NPDES permit which incorporates both the federal 301(h) variance and State permit requirements will serve as the State's certification/concurrence that the modified discharge will comply with applicable State law and water quality standards. A draft 301(h)-modified permit has been jointly developed by the Regional Water Board and EPA Region 9. [Section 301(h)(1); 40 CFR 125.61]*

- 3. The applicant has demonstrated it can consistently achieve State water quality standards and federal 304(a)(1) water quality criteria beyond the zone of initial dilution. [CWA section 301(h)(9); 40 CFR 125.62(a)]*
- 4. The applicant's proposed discharge, alone or in combination with pollutants from other sources, will not adversely impact public water supplies or interfere with the protection and propagation of a balanced, indigenous population (BIP) of fish, shellfish and wildlife, and will allow for recreational activities. [CWA section 301(h)(2); 40 CFR 125.62(b), (c), (d)]*
- 5. The applicant has a well-established monitoring program and has demonstrated it has adequate resources to continue the program. The applicant has proposed no changes to its existing monitoring program. EPA Region 9 and the Regional Water Board will review the applicant's existing monitoring program and revise it, as appropriate. These revisions will be included in the 301(h)-modified permit, as conditions for monitoring the impact of the discharge. [CWA section 301(h)(3); 40 CFR 125.63]*
- 6. The applicant has sent a letter to the Regional Water Board requesting determination that the proposed discharge will not result in any additional treatment requirements on any other point or nonpoint sources. The adoption by the Regional Water Board of a NPDES permit which incorporates both the federal 301(h) variance and State permit requirements will serve as the State's determination, pursuant to 40 CFR 125.59(f)(4), that the requirements under 40 CFR 125.64 are achieved. [CWA section 301(h)(4); 40 CFR 125.64]*
- 7. The applicant's existing pretreatment program was approved by EPA Region 9 on June 29, 1982, and remains in effect. [CWA section 301(h)(5); 40 CFR 125.66 and 125.68]*
- 8. The applicant has complied with urban area pretreatment requirements by demonstrating that it has an applicable pretreatment requirement in effect for each toxic pollutant introduced by an industrial discharger. The Urban Area*

*Pretreatment Program was submitted to EPA Region 9 and the Regional Water Board in August 1996. This program was approved by the Regional Water Board on August 13, 1997 and EPA on December 1, 1998. [CWA section 301(h)(6); 40 CFR 125.65]*

- 9. The applicant will continue to develop and implement both its existing nonindustrial source control program, in effect since 1985, and existing comprehensive public education program to minimize the amount of toxic pollutants that enter the treatment system from nonindustrial sources. [CWA section 301(h)(7); 40 CFR 125.66]*
- 10. There will be no new or substantially increased discharges from the point source of the pollutants to which the 301(h) variance applies above those specified in the permit. [CWA section 301(h)(8); 40 CFR 125.67]*
- 11. The applicant has sent letters to the U.S. Fish and Wildlife Service and NOAA National Marine Fisheries Service requesting determinations that the proposed discharge complies with applicable federal and State laws. The applicant has prepared a letter to the California Coastal Commission requesting a determination that the proposed discharge complies with applicable federal and State laws; this request will be transmitted to the California Coastal Commission after the 301(h) modified permit is adopted by the Regional Water Board. The issuance of a final 301(h)-modified permit is contingent upon receipt of determinations that the issuance of such permit does not conflict with applicable provisions of federal and State laws. [40 CFR 125.59]*
- 12. In its operation of the Point Loma WTP, the applicant will continue to: achieve a monthly average system-wide percent removal for TSS of not less than 80 percent and an annual average system-wide percent removal for BOD of not less than 58 percent; and has implemented a water reclamation program that will result in a reduction in the quantity of suspended solids discharged into the marine environment during the period of the 301(h) modification. To ensure compliance with this requirement, EPA Region 9 is imposing permit conditions slightly different than those proposed by the applicant. In addition, the applicant has constructed a system capacity of 45 mgd of reclaimed water, thereby meeting this January 1, 2010 requirement. [CWA section 301(j)(5)]*

### **CONCLUSION**

*EPA Region 9 concludes that the applicant's proposed discharge will satisfy CWA sections 301(h) and (j)(5) and 40 CFR 125, Subpart G.*

EPA's TDD further states:

**APPLICATION OF STATUTORY AND REGULATORY CRITERIA**

**A. Compliance with Federal Primary Treatment, California Ocean Plan Table A, and CWA section 301(j)(5) Requirements**

...

**1. Total Suspended Solids**

*To comply with the... [applicable] requirements, the applicant has proposed the following effluent limits for total suspended solids:*

*TSS: (1) The monthly average system-wide percent removal shall not be less than 80% percent (computed in accordance with Addendum No. 1 to Order No. R9-20020025, NPDES No. CA0107409).*

*(2) The monthly average treatment plant effluent concentration shall not be more than 75 mg/l.*

*(3) The annual treatment plant loading to the ocean shall not be more than 15,000 metric tons per year during years one through four of the permit and not more than 13,598 metric tons per year during year five of the permit. Compliance calculations for these loadings are not to include contributions from: Tijuana, Mexico, via the emergency connection; federal facilities in excess of solids contributions received in calendar year 1995; Metro System flows treated in the City of Escondido; South Bay Water Reclamation Plant flows discharged to the South Bay Ocean Outfall; and emergency use of the Metro System by participating agencies over their capacity allotments.*

Describing the plant's SS removal rates for the term of the previous waiver, the TDD states:

*Table 4. Monthly average and annual average effluent concentrations for total suspended solids (mg/l) at Point Loma WTP.*

Month	2002	2003	2004	2005	2006	2007
January	40.5	41.0	46.4	38.0	35.7	36
February	46.6	42.2	43.7	39.0	36.8	34
March	40.9	39.9	43.6	35.6	36.8	33
April	41.7	41.1	43.5	38.2	37.9	29
May	42.5	45.8	42.0	40.2	35.1	26
June	46.5	43.7	44.0	45.1	33.6	25
July	51.9	44.1	43.7	46.9	37.2	31
August	46.0	41.4	43.1	41.0	37.1	34

September	39.0	39.9	44.8	41.9	30.6	41
October	39.4	41.3	37.5	43.0	31.7	43
November	42.4	40.5	37.9	39.2	33.9	35
December	44.5	43.3	41.9	38.5	32.5	41
Annual Average	43.5	42.0	42.7	40.6	34.9	34
Maximum Month	51.9	43.3	46.4	46.9	37.9	43
Minimum Month	39.0	39.9	37.5	35.6	30.6	25

*Table 5. Monthly average and annual average percent removals for total suspended solids (%) at Point Loma WTP.*

Month	2002	2003	2004	2005	2006	2007
January	85.6	86.1	85.1	84.5	87.4	86.7
February	82.1	85.4	85.1	84.5	87.5	87.9
March	84.9	85.9	85.0	85.1	86.6	88.9
April	85.2	85.8	84.9	85.7	86.1	90.9
May	85.3	84.4	85.3	85.1	87.6	91.6
June	84.6	84.9	85.5	84.3	87.7	92.6
July	83.7	84.9	85.4	83.3	86.8	91.4
August	84.3	85.6	85.5	86.1	86.7	90.8
September	86.5	85.5	84.8	85.8	89.8	87.7
October	86.3	84.5	87.2	84.7	89.7	86.5
November	85.4	84.9	85.5	86.5	88.8	88.7
December	84.3	84.9	84.7	86.8	88.7	85.4
<b>Annual Average</b>	<b>84.9</b>	<b>85.2</b>	<b>85.3</b>	<b>85.2</b>	<b>87.8</b>	<b>89.1</b>
Maximum Month	86.5	86.1	87.2	86.8	89.8	92.6
Minimum Month	82.1	84.4	84.7	83.3	86.1	85.4

[Emphasis added]

Describing reclamation improvements, the TDD states:

*To comply with the CWA section 301(j)(5) requirement to implement a wastewater reclamation program that will result in a reduction in the quantity of suspended solids discharged by the applicant into the marine environment during the period of the 301(h) modification, the applicant has brought online the 30 mgd North City WRP and the 15 mgd South Bay WRP and, as part of its “improved” discharge, has*

*committed to bring additional recycled water users online to reduce dry-weather flows to both the South Bay Ocean Outfall and Point Loma WTP and Ocean Outfall. Evidence for reductions in the quantity of suspended solids discharged by the applicant during the period of the 301(h) modification are provided in the application (Volume III, Figure II.A-1) which shows the actual reduction in Point Loma WTP effluent mass emissions for total suspended solids from 1995 through 2007. The application also provides projections for total suspended solids loadings from the Point Loma WTP during the period of the proposed 301(h) modification (Appendix III, Table II.A-21).*

Describing past and projected future discharge and emission flow rates, the TDD states:

*Table 9. Point Loma WTP actual and projected flows (mgd) and total suspended solids loadings (MT/year) during the terms of the existing and proposed permits.*

Year	Actual Annual Average Discharge <sup>1</sup>	Actual TSS Mass Emissions <sup>1,2</sup>	Projected Annual Ave. Discharge	Projected TSS Mass Emissions
1995	188	11,060	---	---
1996	179	10,718	---	---
1997 <sup>3</sup>	189	10,255	---	---
1998 <sup>4</sup>	194	10,627	---	---
1999	175	9,130	---	---
2000 <sup>5</sup>	174	9,036	---	---
2001	175	10,256	---	---
2002 <sup>6</sup>	169	10,184	---	---
2003	170	9,862	---	---
2004	174	10,300	---	---
2005	183	10,229	---	---
2006	170	8,248	---	---
2007	161	7,588	---	---
2008	---	---	191	11,400
2009	---	---	193	11,500
2010	---	---	194	11,800
2011	---	---	195	11,700
2012	---	---	197	11,800
2013	---	---	199	11,900
2014	---	---	202	12,100

<sup>1</sup> Flow and mass emissions data from annual reports submitted to the Regional Water Board and EPA for 1995-2007.

<sup>2</sup> Annual mass emissions (converted to units of metric tons per year) are computed as the annual average of monthly mass emissions presented in annual reports submitted to the Regional Water Board and EPA for 1995-2007. The above-listed annual values (computed from monthly averages) may vary slightly from the annual values presented in the summary sheets within the annual reports, which are computed on the basis of average flow and effluent total suspended solids concentrations.

<sup>3</sup> North City WRP is brought online.

<sup>4</sup> Metro Biosolids Center is brought online.

<sup>5</sup> International Boundary and Water Commission International Wastewater Treatment Plant is brought online and Tijuana wastewater flows to Metro System are terminated.

<sup>6</sup> South Bay WRP is brought online.

Describing the plant's BOD removal rates for the term of the previous waiver, the TDD states:

**2. Biochemical Oxygen Demand**

*To comply with federal primary treatment and CWA section 301(j)(5) requirements for biochemical oxygen demand, the applicant has proposed the following effluent limit:*

*BOD: The annual average system-wide percent removal shall not be less than 58 percent (computed in accordance with Addendum No. 1 to Order No. R9-2002-0025, NPDES No. CA0107409).*

*EPA reviewed influent and effluent data for Point Loma WTP provided in Volume IV, Appendix A, of the application. The data for biochemical oxygen demand are summarized, as follows.*

*As shown in Table 12 [EPA TDD, p. 30], the monthly average percent removals for biochemical oxygen demand meet the federal primary treatment requirement.*

*In contrast to the federal primary treatment requirement, the percent removal requirement for biochemical oxygen demand specified under CWA section 301(j)(5) is applied on a "system-wide" basis and computed in accordance with the existing permit.*

*Table 13. Monthly average and annual average system-wide percent removals for biochemical oxygen demand (%).*

Month	2002	2003	2004	2005	2006	2007
January	65	67	62	62	65	67
February	61	65	64	62	66	68
March	67	63	62	60	63	69

April	66	61	64	61	63	71
May	69	61	65	60	64	71
June	70	61	64	59	62	73
July	68	62	63	60	60	72
August	69	64	60	62	64	72
September	71	66	61	63	67	72
October	68	65	66	60	69	70
November	65	67	63	63	67	71
December	68	66	62	63	66	69
Annual Average	67	64	63	61	65	70
Maximum Month	71	67	66	63	69	73
Minimum Month	61	61	60	59	60	67

*As shown in Table 13, the annual average system-wide percent removals for biochemical oxygen demand meet the CWA section 301(j)(5) requirement of not less than 58 percent.*

Describing attainment of water quality standards for TSS and BOD, the TDD states:

*Under 40 CFR 125.61(a) which implements CWA section 301(h)(1), there must be a water quality standard applicable to the pollutants for which the modification is requested; under 125.61(b)(1), the applicant must demonstrate that the proposed modified discharge will comply with these standards. The applicant has requested modified requirements for total suspended solids, which can affect natural light (light transmissivity) and biochemical oxygen demand which can affect dissolved oxygen concentration.*

### ***1. Natural Light***

...

*Under its existing NPDES permit, the City conducts the required quarterly monitoring for light transmittance, throughout the water column, at a grid of 33 offshore stations located along the 98, 80 and 60 meter contours. EPA evaluated the applicant's monitoring results from October 2003 through October 2007. As shown in Table B-1 and Figure A-5, long-term averages and standard deviations for percent transmissivity at different water depths at the near-ZID boundary and nearfield stations (F30, F29, F31) are similar to those observed for the same water depth, at farfield stations located on the 98 meter contour. Long-term averages for percent transmissivity are lower and more variable at water depths closer to the surface and at the bottom, in comparison to water depths below the euphotic zone which are frequented by the drifting wastefield. Generally, percent transmissivity is lower at stations closer to the coast, due to shoreline influences and sediment resuspension at the bottom.*

*Based on this evaluation, EPA concludes that the Point Loma discharge does not result in a significant reduction in natural light in areas within the wastefield where initial dilution is completed.*

**2. Dissolved Oxygen**

...

*Table 15. Predicted worst-case dissolved oxygen (DO) depressions (mg/l) and percent reductions (%) performed by San Diego (1995) and EPA (1995).*

Sources of Potential Oxygen Demand	San Diego	EPA
DO depression upon initial dilution (and % reduction)	0.05 (<1%)	0.08 (1.7%)
DO depression due to BOD exertion in the farfield (and % reduction)	0.14 (2.4%)	0.23 (5.9%)
DO depression due to steady-state sediment oxygen demand (and % reduction)	0.045 (1.7%)	0.16 (4.7%)
DO depression due to abrupt sediment resuspension (and % reduction)	0.077 (2.4%)	0.12 (3.5%)

...

*Based on the model predictions and receiving water monitoring results, EPA concludes it is unlikely that the dissolved oxygen concentration will be depressed more than 10 percent from that which occurs naturally outside the initial dilution zone, as a result of the wastewater discharge.*

Describing attainment of Other Water Quality Standards and Impact of the Discharge on Shellfish, Fish and Wildlife; Public Water Supplies; and Recreation, the TDD states:

**1. Attainment of Other Water Quality Standards and Criteria**

*40 CFR 125.62(a) requires that the applicant's outfall and diffuser be located and designed to provide adequate initial dilution, dispersion, and transport of wastewater such that the discharge does not exceed, at and beyond the zone of initial dilution, all applicable State water quality standards. Where there are no such standards, individual 304(a)(1) aquatic life*



*criteria and human health criteria must not be exceeded by the discharge. For this review, the applicable water quality standards and criteria are analyzed in four categories: pH, toxics, whole effluent toxicity, and sediment quality.*

**a. pH**

...

*Based on the model predictions and receiving water monitoring results, it is unlikely that pH will be depressed more than 0.2 units from that which occurs naturally outside the initial dilution zone, as a result of the wastewater discharge. Also, EPA expects that technology based effluent limits for pH will be met by the applicant.*

**b. Toxics and Whole Effluent Toxicity**

...

*In accordance with the existing permit, the applicant conducted sensitivity screening using Atherinops affinis (topsmelt), Haliotis rufescens (red abalone), and Macrocystis pyrifera (giant kelp) and concluded that the red abalone and giant kelp were the most sensitive organisms for chronic toxicity testing. EPA's review of the 52 red abalone larval development test results from June 2003 through 2007 shows no exceedance of the chronic toxicity objective using the minimum monthly initial dilution value of 204:1. EPA's review of the 60 giant kelp germ tube length test results from June 2003 through 2007 shows one exceedance (December 19, 2005) of the chronic toxicity objective which is a very low failure rate. In response to the exceedance, the City conducted accelerated toxicity testing as required by the existing permit; these follow-up toxicity tests demonstrated compliance with the objective. The applicant reports that concentrations of toxic inorganic and organic constituents in the Point Loma WTP effluent at the time of the noncompliant toxicity test were at normal values and the cause of the toxicity is unknown. The existing permit limit is 205 TUC and the critical effluent concentration is 0.49 percent effluent.*

*EPA reviewed these acute toxicity data, along with the summary results for acute toxicity provided in Volume III, Large Applicant Questionnaire section III.B.7, of the application to determine if any test results exceeded the Table B acute toxicity objective of 0.3 TUa (= 100/LC50). In accordance with the existing permit, the applicant conducted sensitivity screening both using Atherinops affinis (topsmelt) and Mysidopsis bahia (shrimp) and concluded that the shrimp was the more sensitive organism for acute toxicity testing. EPA's review of the 11 test results from June 2003 through September 2007 shows no exceedance of*

*the acute toxicity objective, using the minimum monthly initial dilution value of 20.4:1 for acute toxicity. The existing permit limit is 6.5 TUa and the critical effluent concentration is 15.5 percent effluent.*

...

*EPA concludes that the modified discharge will attain applicable water quality standards and criteria for toxics and whole effluent toxicity, based on the very low rates of effluent excursions above water quality objectives for toxics and chronic toxicity. Consistent with State policy, appropriate requirements for toxics and whole effluent toxicity will be included in the permit. Water quality based effluent limits will be established for all California Ocean Plan Table B parameters where effluent data show the reasonable potential to exceed water quality objectives for toxics and whole effluent toxicity. The effluent will be monitored for all Table B parameters and other priority pollutants following the regular schedule set in the existing permit. The results of the effluent monitoring program will be evaluated against the annual mass emission benchmarks to protect the Point Loma WTP headworks and achieve permit compliance with water quality standards.*

*In accordance with 40 CFR 125.62, EPA concludes that the modified discharge will allow for the attainment or maintenance of water quality which assures protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife.*

### ***c. Sediment Quality***

...

#### ***Organic Indicators***

*Concentrations of total organic carbon, total volatile solids, total nitrogen, biochemical oxygen demand, and sulfides are measured as indicators of organic enrichment in sediments. Total organic carbon and total volatile solids represent more direct measurements of carbon imported as fine particulate matter.*

*Total Organic Carbon. ... The... data do not suggest an outfall related effect. Figure E.5-2 in Volume IV, Attachment E.5, of the application summarizes percent total organic carbon in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).*

*Total Volatile Solids. ... The... data do not suggest an outfall-related effect. Figure E.5-3 in Volume IV, Attachment E.5, of the application summarizes percent total volatile solids in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006)*

*Total Nitrogen. ... The... data do not suggest an outfall-related effect. Figure E.5-4 in Volume IV, Attachment E.5, of the application summarizes percent total nitrogen in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).*

*Biochemical Oxygen Demand. ... The...data suggest that a small amount of organic enrichment is occurring close to the outfall diffuser.*

*Sulfides. ... The... data suggest that a small amount of organic enrichment is occurring close to the outfall diffuser. Figure E.5-5 in Volume IV, Attachment E.5, of the application summarizes sulfide concentrations in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).*

*Modeling predictions indicate that deposition and accumulation rates associated with the Point Loma Ocean Outfall are not likely to have negative effects on benthic communities beyond the zone of initial dilution. Monitoring results for sediment parameters associated with organic enrichment suggest a mixed picture relative to the potential for biological effects close to the outfall diffuser. Only biochemical oxygen demand and sulfides are elevated at near-ZID station E14; sulfides are variably elevated at nearfield stations E17 and E11. However, as described below, monitoring results for biological indicators of organic enrichment lead EPA to conclude that significant effects on the benthic macrofauna community are not occurring in areas beyond the zone of initial dilution. EPA also concludes that the modified discharge complies with applicable California Ocean Plan water quality objectives for chemical characteristics of marine sediments.*

### **Trace Metals and Toxic Organics**

...

*Based on this review, EPA concludes that the chemical characteristics in sediments beyond the zone of initial dilution are not changed by the modified discharge such that toxic substances in Table B of the California Ocean Plan are increased to levels which would degrade indigenous biota.*

### **3. Impact of the Discharge on Shellfish, Fish, and Wildlife**

...

#### **a. Phytoplankton**

...

*EPA concludes that total suspended solids and nutrient materials in the Point Loma discharge will not result in a significant change in the productivity or standing stock of phytoplankton, will not cause natural light to be significantly reduced beyond the initial dilution zone, and will not cause objectionable aquatic growths or degrade indigenous biota.*

***b. Benthic Macrofauna***

...

*Based on the evidence described in this section, EPA concludes that conditions beyond the zone of initial dilution are not degraded in compliance with the California Ocean Plan and support an ecological community which exhibits characteristics similar to those of nearby, healthy communities existing under comparable but unpolluted environmental conditions.*

***c. Demersal Fish***

...

*EPA concludes there are no apparent spatial or temporal trends in the total number of fish species or abundances of fishes that suggest an outfall-related impact.*

Describing additional requirements for improved discharges, the TDD states:

***H. Increase in Effluent Volume or Amount of Pollutants Discharged***

...

*The City must also implement a wastewater reclamation program that, at minimum, will result in a reduction in the quantity of suspended solids discharged into the marine environment during the period of the modification.*

...

*Table II.A-21 in Volume III of the application provides projections for Metro System flow and mass loads for total suspended solids and biochemical oxygen demand, in one year increments, through 2027. This table also provides flow and total suspended solids load projections for the PLOO discharge. Table 30 summarizes these projections for the term of the proposed permit (2009/10 through 2013/14).*

*Table 30. Point Loma Ocean Outfall flows (mgd) and total suspended solids loadings (MT/yr) projections for long-term facilities planning during the term of the proposed permit and proposed total suspended solids mass emission effluent limits.*

Year	Projected Annual Average Discharge	Projected TSS Mass Emissions	Proposed TSS Mass Emission Effluent Limits
2009	193	11,500	15,000
2010	194	11,800	15,000
2011	195	11,700	15,000
2012	197	11,800	15,000
2013	199	11,900	15,000
2014	202	12,100	13,598

*The applicant's projections in Table 30 and proposed effluent limits in Table 29 satisfy the applicable requirements. Based on Table 30, EPA believes that a total suspended solids mass emission rate of 12,100 metric tons per year would be achievable during all five years of the proposed 301(h) modification. During this period, EPA recognizes that reductions in mass emissions resulting from increased water reclamation are likely to be seasonal and anticipates the potential for corresponding higher mass emission rates during wet weather months. In the future, the City needs to pursue additional water reclamation and reuse projects, including those which demand a year-round supply of reclaimed water so as to maintain long-term compliance with this decision criterion.*

**3. RWQCB Evaluation of San Diego's Discharges.** On June 10, 2009, the RWQCB adopted "Tentative Order No. R9-2009-0001 and Draft NPDES Permit (Order/Permit) No. CA0107409; Waste Discharge Requirements and NPDES Permit for the City of San Diego E.W. Blom Point Loma Metropolitan Wastewater Treatment Plant Discharge to the Pacific Ocean through the Point Loma Ocean Outfall." The RWQCB's Order/Permit contains a detailed description of the discharge system, numerous limitations and discharge requirements, monitoring, reporting and compliance requirements, reopener provisions, and a determination that compliance with the Order's/Permit's conditions would enable the RWQCB to find the discharges in compliance with applicable federal and state water quality standards. The Order/Permit states (p. 5):

*The Regional Water Board's certification/concurrence that the discharge will comply with water quality standards for the pollutants which the 301(h) variance is requested (40 CFR 125.61) (i.e., TSS and BOD5). The joint issuance of a NPDES permit which incorporates both the 301(h) variance and State waste discharge requirements will serve as the State's concurrence ....*

The full text of the Order/Permit, as well as the RWQCB's Responses to Public Comments, can be found at the following link at the RWQCB's website:

[http://www.waterboards.ca.gov/sandiego/board\\_decisions/tentative\\_orders/](http://www.waterboards.ca.gov/sandiego/board_decisions/tentative_orders/)

**4. Commission Conclusion.** The ~~information submitted by the~~ City of San Diego ~~maintains that, along with~~ the supporting analysis and information from EPA and the RWQCB; support ~~its the City's~~ certification that its continued discharge from the Point Loma WTP under a secondary treatment waiver would not be inconsistent with the Coastal Act's water quality and marine resource protection provisions, or with any of the other applicable standards. EPA's independent Technical Evaluation determined that San Diego's discharges meet the applicable Clean Water Act standards for a waiver. Based on EPA's analysis including a review of plant performance and modeling efforts performed since 2002, the discharges from the outfall do not appear to be resulting in any significant reduction in light transmissivity, any biologically significant changes in benthic community structure in the vicinity of the outfall (beyond the zone of initial dilution), or any significant changes in fish populations or fish diseases in the area.

Specifically with respect to the results of the City's benthic monitoring, any documented changes to the benthic community that were identified in the monitoring were limited to a very small area, and those changes did not appear to be a consequence of, and certainly did not demonstrably result from, the reduced treatment level permitted by the secondary treatment waiver. In addition, and as noted above, when the Commission reviewed the City's waiver request in 2002, the Commission expressed the need for more comprehensive and greater regional extent of monitoring. Since 2002 the City's has greatly expanded its monitoring program, including extensive regional monitoring, as well as adding new efforts such as deep water monitoring in the underwater canyons in the greater project area.

The only benthic samples showing deviation from reference conditions or reduction of biodiversity were within the physically disturbed area directly adjacent to the end of the outfall. In this area the outfall splits into two legs each 760 meters (m) long and with a total of 208 diffuser ports. Benthic organisms in this area are impacted by physical factors (cement pipes, base rock, turbulent water flow), as well as changes to water salinity due to the discharge, and these changes to the benthic community would result even if the discharge was treated to secondary standards.

The Clean Water Act requires that the discharge must meet receiving water body water quality standards after initial turbulent mixing at the end of the outfall, and for the Point Loma Ocean Outfall this "zone of initial dilution" (or ZID) has been identified as an area surrounding the diffuser legs that extends no more than 100m from the outfall (Exhibits 6-8). Monitoring by the City of San Diego has shown that the discharge does achieve receiving water quality standards at the boundary of the ZID. One area of concern has been that about 5% of bacteria samples in the kelp beds that lie between the end outfall and the shoreline exceed the states recreational standard for beaches promulgated by Assembly Bill 411 (the Beach Water Quality Act). While these standards mandated by AB411 for heavily used-beaches (more than 50,000 users per year) are not strictly applicable to kelp beds, they provide a conservative benchmark, and achievement of that benchmark motivated the City to initiate chlorination of the discharge in late 2008.

While the receiving waters at the end of the outfall typically achieve water quality standards, concerns have been expressed that there may be adverse impacts to the benthic (sea floor) environment surrounding the outfall. Exhibit 6 provides an overview of the area sampled annually for benthic conditions, covering an area about 25 km by 10 km (250 km<sup>2</sup>). For benthic community data, the Benthic Response Index (Smith, 2001) is commonly used in the Southern California Bight as a way to express levels of impacts to benthic communities by divergence of the community from reference conditions.

The two following exhibits (Exhibits 7 & 8) show progressively smaller areas, with the former (Exhibit 7) showing only about 2% (5 km<sup>2</sup>) of the total area sampled and the latter (Exhibit 8) showing the ZID, which is only about 0.3 km<sup>2</sup>. The sequence of Exhibits clearly shows that the only two sample locations where the benthic community differed from the reference community were within 100 m of the outfall diffuser. These two locations are out of a total of 100 sample locations. One of the samples in the ZID exhibited barely enough deviation to qualify as a "marginal deviation

from reference” (25.8 in a range of 25-34), and the other showed just enough deviation to place it in the range for “biodiversity loss” (34.5 in a range of 34-44). While a loss of biodiversity over a large area would in fact conflict with Coastal Act policies, the Commission finds that a small loss of biodiversity in an area of 0.3 km<sup>2</sup> directly adjacent to the outfall structure does not constitute an impact that would be inconsistent with the requirements of Sections 30230 and 30231 to sustain biological productivity, to maintain healthy populations of all species of marine organisms, and to protect the biological productivity and the quality of coastal waters, through, among other means, minimizing the adverse effects of waste water discharges.

Looking at the health of populations over the area where the plume might have a measurable effect, loss of a particular species within the small area of the ZID does not indicate that healthy biological populations of those species are not maintained in the receiving waters of the discharge. This finding is supported by EPA’s conclusion that the discharge:

*... will not interfere, alone or in combination with pollutants from other sources, with the attainment or maintenance of that water quality which assures [...] the protection and propagation of a balanced, indigenous population (BIP) of shellfish, fish and wildlife, and allows recreational activities, in and on the water”.*

The clear intent of the Coastal Act marine resource protection policies is that marine populations should not be either reduced or increased to the detriment of the biological community or to human uses of the populations (e.g., for commercial, recreational, scientific, or educational purposes as listed in Section 30230). While a measurable decrease in diversity and an increase in the number of organisms occurs in a small area within the ZID, no evidence is available to suggest that this has adversely impacted the benthic or pelagic organisms outside of the ZID to the extent that the continued discharges would be inconsistent with Section 30230 or 30231.

With regard oxygen reduction in receiving waters, the Commission notes that the plant’s Biochemical Oxygen Demand (BOD) reduction is the primary reason the Point Loma treatment plant does not achieve secondary standards (as SS reductions are very close to if not at secondary treatment levels). The plant only reduces BOD by 68%, rather than of the 85% reduction secondary treatment would achieve. The BOD standard is intended to measure the reduction of organic materials to prevent them from providing excess substrate (food) to microbial organisms in natural waters. A high level of BOD in the effluent would typically favor rapid growth of microbial organisms and a depression in the dissolved oxygen of the receiving waters as those microbes breakdown the organic materials. This can have a significant adverse effect on aquatic organisms in the receiving water and as well as other water quality problems (odors, poor water clarity, etc.). In waters with restricted circulation (rivers, estuaries, lakes), the low dissolved oxygen (DO) can significantly change the health biological community. In the case of the Point Loma discharge, the treatment process reduction of BOD by 68% and the rapid initial dilution of the discharge with well-oxygenated ocean water do not result in measurable depression of receiving water DO and do not violate state standards.

The California Ocean Plan standard for effluent impacts on dissolved oxygen requires that “dissolved oxygen shall not at any time be depressed more than 10% from that which occurs naturally as a result of the discharge of oxygen-demanding waste materials.” Water quality measurements required by the NPDES permit have not shown any consistent measurable depression of DO related to the Point Loma discharge while monitoring at 8 kelp bed monitoring stations 5 times per month and 26 offshore stations 4 times per year. Modeling of worst case DO depression was conducted by USEPA and RWQCB in 1995. The results showed that the worst case of stirring up bottom sediments near the outfall would result in a short term depression of DO of up to 3.5%, lower than the California Ocean Plan limit of 10% for DO depression.

Finally, the RWQCB’s Order and NPDES Permit further document and assure (through conditions) that the discharges would meet California Ocean Plan standards. Moreover, the stringent monitoring as required under Section 301(h) will be continued. In addition, the City has upgraded its facilities since the waiver was originally granted, including adding wastewater reclamation facilities and reducing total mass emission levels.

Nevertheless, for the following reason, the project as proposed is not consistent with the requirements of Sections 30230 and 30231 of the Coastal Act. Despite the City’s monitoring improvements, it is unrealistic to assume that disposal of more than 50 billion gallons of sewage that has not been treated to secondary standards (“partially treated sewage”) per year will have no adverse impacts. Moreover, gaps exist in the monitoring data, and certain monitoring studies are incomplete at this time, including:

Sediment Mapping (results are due later this year)  
Bight-wide Deep Benthic Monitoring (results due March 2010)  
Deep Benthic Synthesis Study (results due Mid-2010)  
Original outfall benthic survey (results due 2010/2011)  
Plume Behavior (results due Fall 2011)  
Emerging Contaminants (e.g., endocrine disruptors)(City is in yr.-5 of a 6 year study)  
Kelp Forest Monitoring Analysis (City is in the second phase of a 3-phase study)

The plume behavior monitoring in particular is needed to accurately characterize and assess the impacts of the discharges. The City acknowledges that reports cited by Heal the Bay in its critique of the plume monitoring (Heal the Bay letter dated October 2, 2009)(Exhibit 13) “...point out areas where additional information is needed to assess regional conditions and makes [sic] subsequent recommendations for enhanced monitoring” (City letter dated October 6, 2009) (Exhibit 14). The City describes Phase 2 of this monitoring as follows:

Phase 2 (2009-10): utilizing an autonomous underwater vehicle equipped with sensors that can detect the plume; knowledge of actual plume behavior in response to circulation features will be used to model near and far-field mixing and movement of the plume; final report due Fall 2011



In addition, information on sediment chemistry, and the density and distribution of benthic organisms in sediment samples collected from depths below 200m, is needed to respond to Commission concerns about the impacts of the suspended solids loading on deep benthic organisms. Initial data from the 2006 Deep Benthic Pilot Project and other regional surveys did not find elevated levels of toxic chemicals in sediments at depths from 200 to 500m; however the results of the benthic organism analyses and from additional deep water samples have not been published. The Deep Benthic Synthesis Study will bring all of this data together and is scheduled to be completed in mid-2010.

To conclude, due to the gaps in the monitoring, combined with the need to maintain, and where feasible, restore, the biological productivity and the quality of coastal waters in a manner that will maintain optimum populations of marine organisms, the Commission finds that the City needs to continue its ongoing efforts to reduce the volume of partially treated sewage discharged from the Point Loma plant by investigating the potential for greater wastewater reclamation and recycling and implementing available options. Thus, in order to bring the project into conformity with Sections 30230 and 30231 of the Coastal Act, the following condition is needed:

#### Condition

**Wastewater Reclamation and Recycling Opportunities Study.** The City will return for a public hearing before the Coastal Commission in (approximately) two years when its study of Wastewater Reclamation and Recycling Opportunities<sup>11</sup> is completed and the findings and recommendations have been documented in a report, and inform the Commission how the City intends to implement the recommendations in the report.

Thus, while the City has improved its monitoring efforts since the last Commission review in 2002, and the monitoring results that are available for the past seven years do not contradict the City's claim that the discharges comply with the applicable Clean Water Act tests, the City nevertheless needs to continue its ongoing efforts to reduce the volume of partially treated sewage discharged from the Point Loma plant by investigating the potential for greater wastewater reclamation and recycling and implementing available options, in order to bring the project into conformity with Sections 30230 and 30231 of the Coastal Act. The Commission therefore concludes that, only as conditioned, would the City's discharges under the renewal of the secondary treatment waiver be consistent with the water quality and marine resources policies (Sections 30230, and 30231) of the Coastal Act.

Thus, based on the available monitoring evidence of the lack of adverse effects of past discharges on the marine environment at current and projected (for the life of the NPDES permit) discharge levels, with the continuation of the stringent monitoring throughout the term of the permit, as conditioned by the RWQCB, the Commission concludes that the City's discharges would be consistent with the water quality and marine resources policies (Sections 30230 and 30231) of the Coastal Act.

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<sup>11</sup> This study refers to the City's Cooperative Agreement with San Diego Coastkeeper and the San Diego Chapter of Surfrider Foundation, approved on February 18, 2009, described further in Footnote 2, page 6, above, and attached as Exhibit 15.

## **B. Commercial Fishing/Recreation**

Section 30230 of the Coastal Act, quoted in full on page [2631](#), includes a requirement that:

*Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

The Coastal Act also contains more specific policies protecting commercial and recreational fishing; Section 30234 provides:

*Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.*

Section 30234.5 provides:

*The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.*

The Coastal Act also protects public recreation (such as surfing and other water-contact recreation). Section 30213 provides, in part:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided..*

Section 30220 provides:

*Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

For similar reasons as discussed in the water quality/marine resource section above, the Commission finds that City ~~'s~~ **needs to make further progress on its ongoing** monitoring efforts **and continue its ongoing efforts to reduce the volume of partially treated sewage discharged less than secondarily treated wastewater from the Point Loma plant by investigating the potential for greater wastewater reclamation and recycling and implementing available options, in order to bring the project into conformity with the fishing and recreation policies of the Coastal Act, over the past five years are sufficient to enable a determination that commercial/recreational fishing**

~~and other recreational resource protection policies will not be violated by the City's proposed discharges.~~ Recreational activities that might be ~~affected~~ **impacted** by the Point Loma WTP discharge are centered around the Point Loma kelp beds and in nearshore waters. SCUBA diving is very popular in the offshore kelp beds. Only limited diving occurs outside the area of the kelp beds. EPA's analysis of the City's plume modeling and monitoring data show that while there have been shoreline water quality standard exceedances, they are unlikely to be related to the City's outfall discharges and more likely to be from land based nonpoint source runoff. Rare exceedances of bacteriological water quality standards in the kelp beds (0.5% of samples) are being addressed by installation of effluent disinfection facilities that were brought on line in September 2008 (see water contact recreation excerpt below). As discussed in the water quality/marine resource section above, the City's monitoring efforts over the past five years are sufficient to enable a determination that commercial/recreational fishing is protected and other recreational concerns are met. EPA states the following concerning effects on recreational activities (including fish consumption):

#### ***4. Impact of the Discharge on Recreational Activities***

...

##### ***a. Bioaccumulation and Fish Consumption***

...

*Based on this review of fish liver and muscle tissues, EPA finds that the improved modified discharge will comply with California Ocean Plan water quality objectives for biological characteristics of ocean waters. EPA concludes that the improved modified discharge will allow for the attainment or maintenance of water quality which allows for recreational activities (fishing) beyond the zone of initial dilution.*

##### ***b. Water Contact Recreation***

...

*The 2007 application is based on an improved discharge, as defined at 40 CFR 125.58(i), and incorporates effluent disinfection to achieve these California Ocean Plan standards in State waters prior to permit reissuance. On November 13, 2007, the City submitted a request to the Regional Water Board to initiate operation of prototype effluent disinfection facilities to achieve compliance with bacteriological water quality standards in State waters. On August 13, 2008, the Regional Water Board approved modifications associated with operation of the City's proposed prototype effluent disinfection facilities at Point Loma WTP. The City began adding sodium hypochlorite to the effluent discharge on September 3, 2008.*

*Based on this review, EPA finds that the improved modified discharge will meet bacterial water quality standards in State waters. EPA also finds that federal waters are not required to achieve the 304(a)(1) water quality criteria for bacteria because federally-defined primary contact recreational activities are not occurring in waters beyond 3 nautical miles. The reissued permit will require the City to record and report any primary contact recreational activities observed in federal waters, during offshore water quality monitoring surveys. The Regional Water Board and EPA conduct routine reviews of the City's discharge monitoring reports to assess compliance with the existing permit and water quality standards. EPA concludes that the improved modified discharge will allow for the attainment or maintenance of water quality which allows for recreational activities beyond the zone of initial dilution, including, without limitation, swimming, diving, picnicking, and sports activities along shorelines and beaches.*

Thus, while the City has improved its monitoring efforts since the last Commission review in 2002, and the monitoring results that are available for the past seven years do not contradict the City's claim that the discharges comply with the applicable Clean Water Act tests, the City nevertheless needs to continue its ongoing efforts to reduce less than secondarily treated wastewater the volume of partially treated sewage discharged from the Point Loma plant by investigating the potential for greater wastewater reclamation and recycling and implementing available options, in order to bring the project into conformity with Sections 30230 and 30231 of the Coastal Act. The Commission therefore concludes that, In reviewing the City's previous waiver (CC-028-02), the Commission found that the City's discharges addressed all applicable commercial/recreational fishing and other recreational concerns. The monitoring results since that time support the same conclusion that the Commission previously reached, and similar monitoring will be maintained for the period of this continuing waiver. Therefore, as discussed above with respect to marine resources, and only as conditioned, by the RWQCB, would the discharges be the Commission concludes that the discharges would be consistent with the applicable commercial and recreational fishing and general recreation policies (Sections 30230, 30234, 30234.5, 30213, and 30220) of the Coastal Act.

**IVI. SUBSTANTIVE FILE DOCUMENTS:**

1. RWQCB Tentative Order No. R9-2009-0001 and Draft NPDES Permit No. CA0107409; Waste Discharge Requirements and NPDES Permit for the City of San Diego E.W. Blom Point Loma Metropolitan Wastewater Treatment Plant Discharge to the Pacific Ocean through the Point Loma Ocean Outfall
2. EPA Tentative Decision, City of San Diego WTP Outfall, Environmental Protection Agency, Region IX, December 2, 2008.
3. Consistency Certifications No. CC-043-09, CC-28-02 and CC-010-02 (City of San Diego, secondary treatment waiver), and related RWQCB/SWRCB Orders:

- (1) SWRCB Order WQO-2002-0013 (SWRCB/OCC FILE A-1477), City of San Diego;
- (2) RWQCB Tentative Order No. R9-2002-0025 and draft NPDES Permit No. CA0107409, City of San Diego; and (3) RWQCB Order No. 95-106 and NPDES Permit No. CA0107409, City of San Diego.
4. Morro Bay, Goleta, and Orange County Consistency Certifications for secondary treatment waiver renewals, CC-88-92 and CC-123-98, and CC-007-06 (City of Morro Bay), CC-13-02 and CC-126-96 (Goleta Sanitary District), and CC-3-98 (County Sanitation Districts of Orange County (CSDOC)).
5. Consistency Certification No. CC-62-91/Coastal Development Permit No. 6-91-217 (City of San Diego, Point Loma outfall extension).
6. No Effects Determination NE-94-95 (City of San Diego, secondary treatment waiver).
7. Consistency Determination No. CD-137-96 (IBWC) International Boundary and Water Commission International Wastewater Treatment Plant Interim Operation.
8. Smith, R.W., et. al., Ecological Applications, Vol. 11, No. 4 (Aug., 2001), 1073-1087.

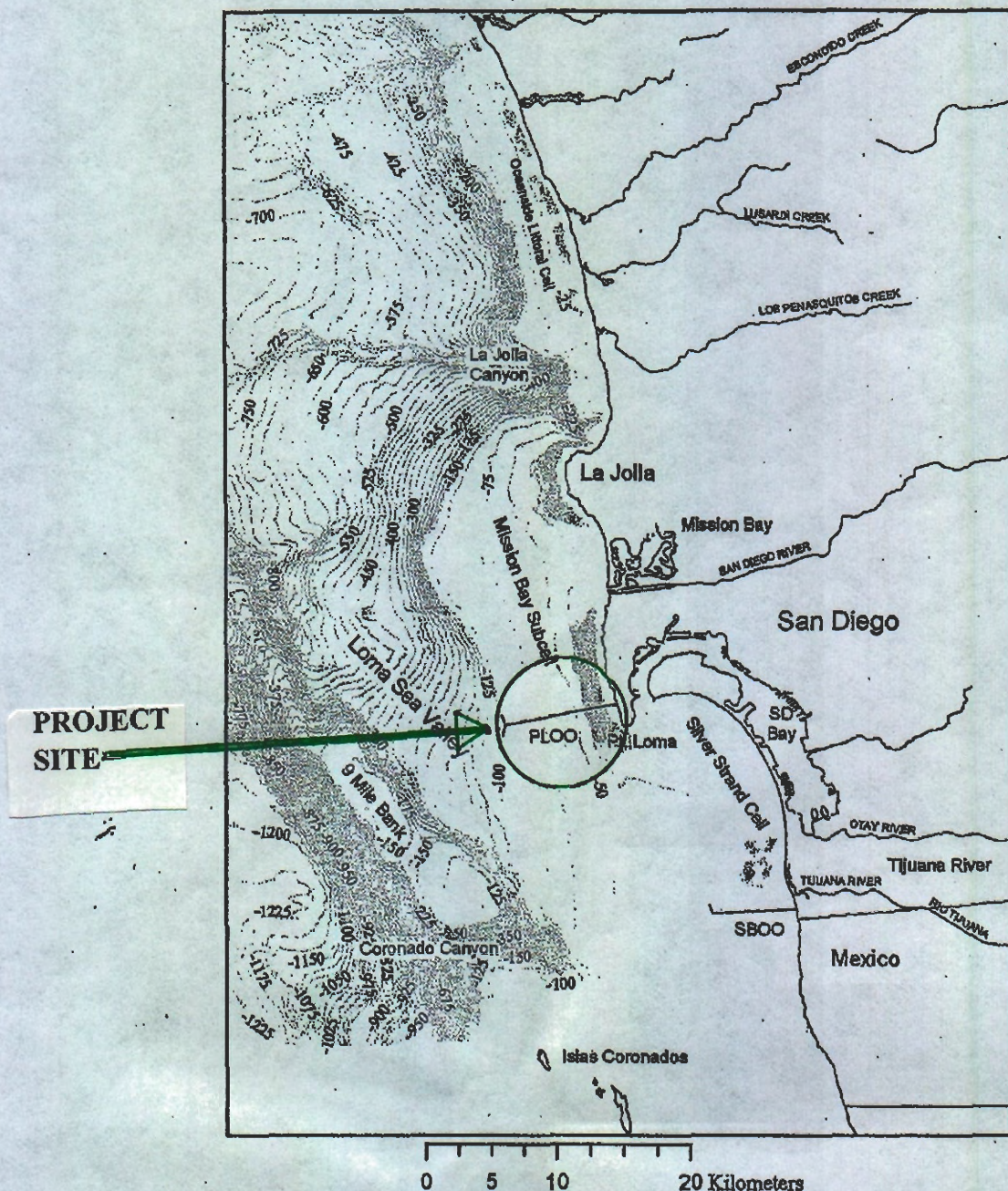
**VIIIX. Exhibits (attached):**

1. Area Map/Outfall
2. Metro Sewer System
3. Sediment Monitoring & Mapping Stations
4. Regional Monitoring Stations
5. Deep Benthic Monitoring Stations
6. Benthic Monitoring Results – large scale
7. Benthic Monitoring Results – medium scale
8. Benthic Monitoring Results – small scale
9. California Ocean Plan, Definitions
10. California Ocean Plan, Tables A and B and Water Quality Objectives
11. RWQCB Fact Sheet – Monitoring Requirements
12. Smith, R.W., et. al., Ecological Applications, Vol. 11, No. 4 (Aug., 2001), 1073-1087.  
EPA Tentative Decision (TDD), December 2, 2008 (without appendices)
13. Heal the Bay letter to CCC, dated October 2, 2009
14. City of San Diego letter to CCC, dated October 6, 2009
15. Cooperative Agreement, City of San Diego, San Diego Coastkeeper and San Diego Chapter of Surfrider Foundation, dated February 17, 2009

Note: the **EPA's** TDD Appendices can be found at these two EPA website links:  
<http://www.epa.gov/region09/water/npdes/pdf/ca/SanDiego/SanDiegoFigures-A1-A55.pdf>  
and <http://www.epa.gov/region09/water/npdes/pdf/ca/SanDiego/SanDiegoTables-B1-B27.pdf>

~~Appendix A—Correspondence (separate attachment)~~

**ATTACHMENT B – MAP**

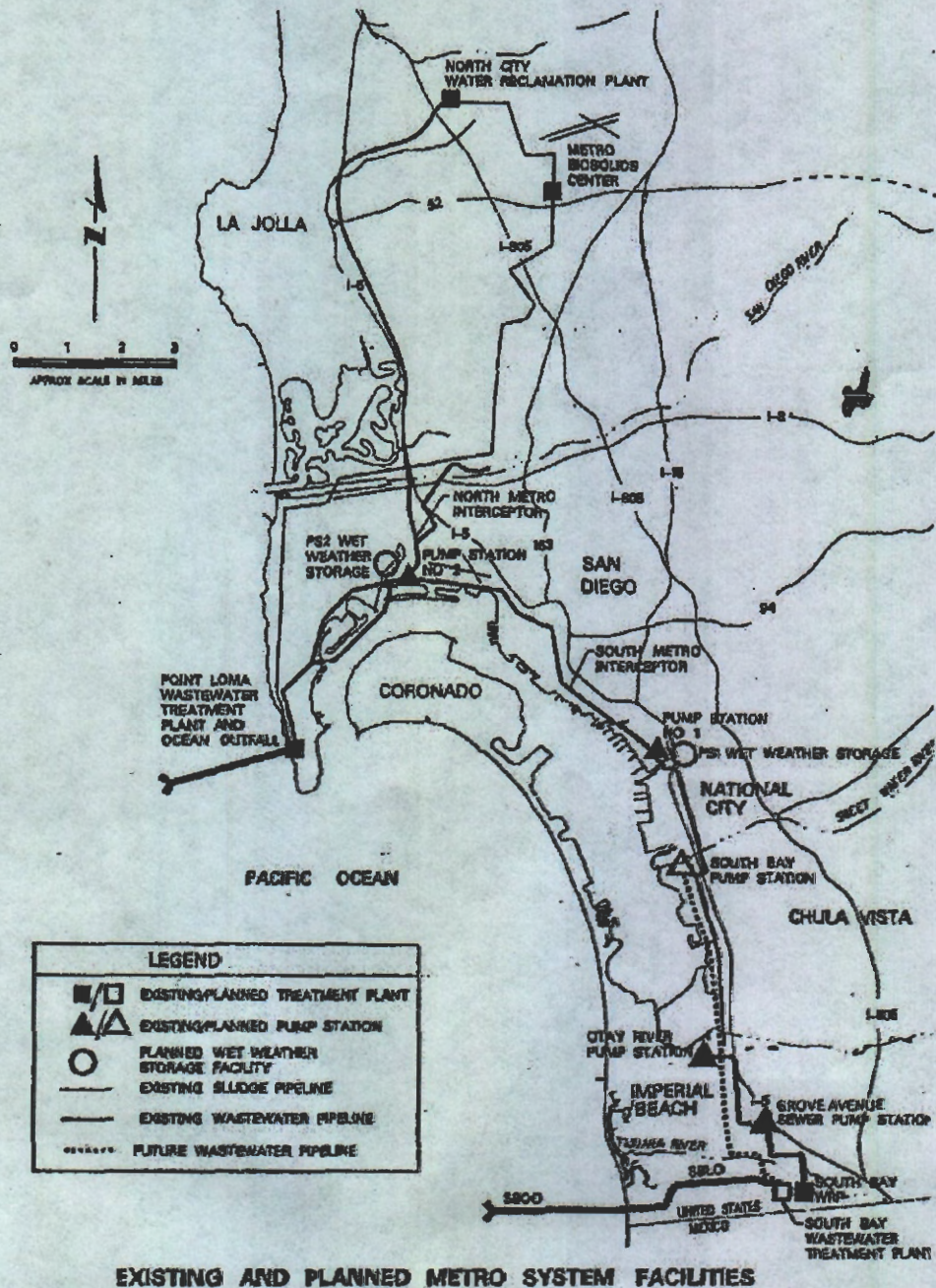


Map of marine shelf of San Diego County. Bathymetric units are meters. Locations of littoral cells, submarine canyons, outfalls (PLOO and SBOO), rivers, and Kelp Forests (shaded areas close to shore) are indicated.

Attachment B –Map

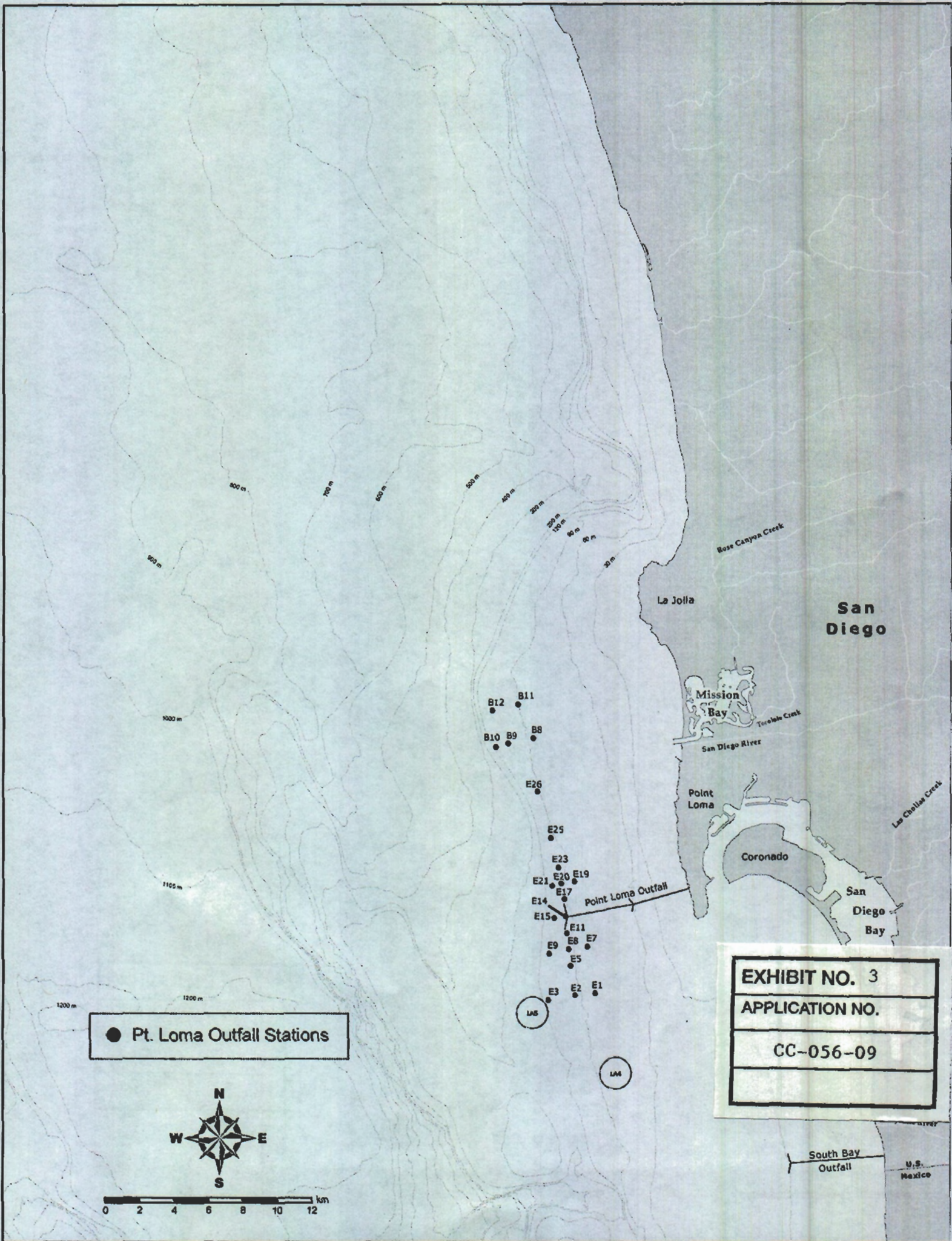
<b>EXHIBIT NO. 1</b>
APPLICATION NO.
CC-056-09

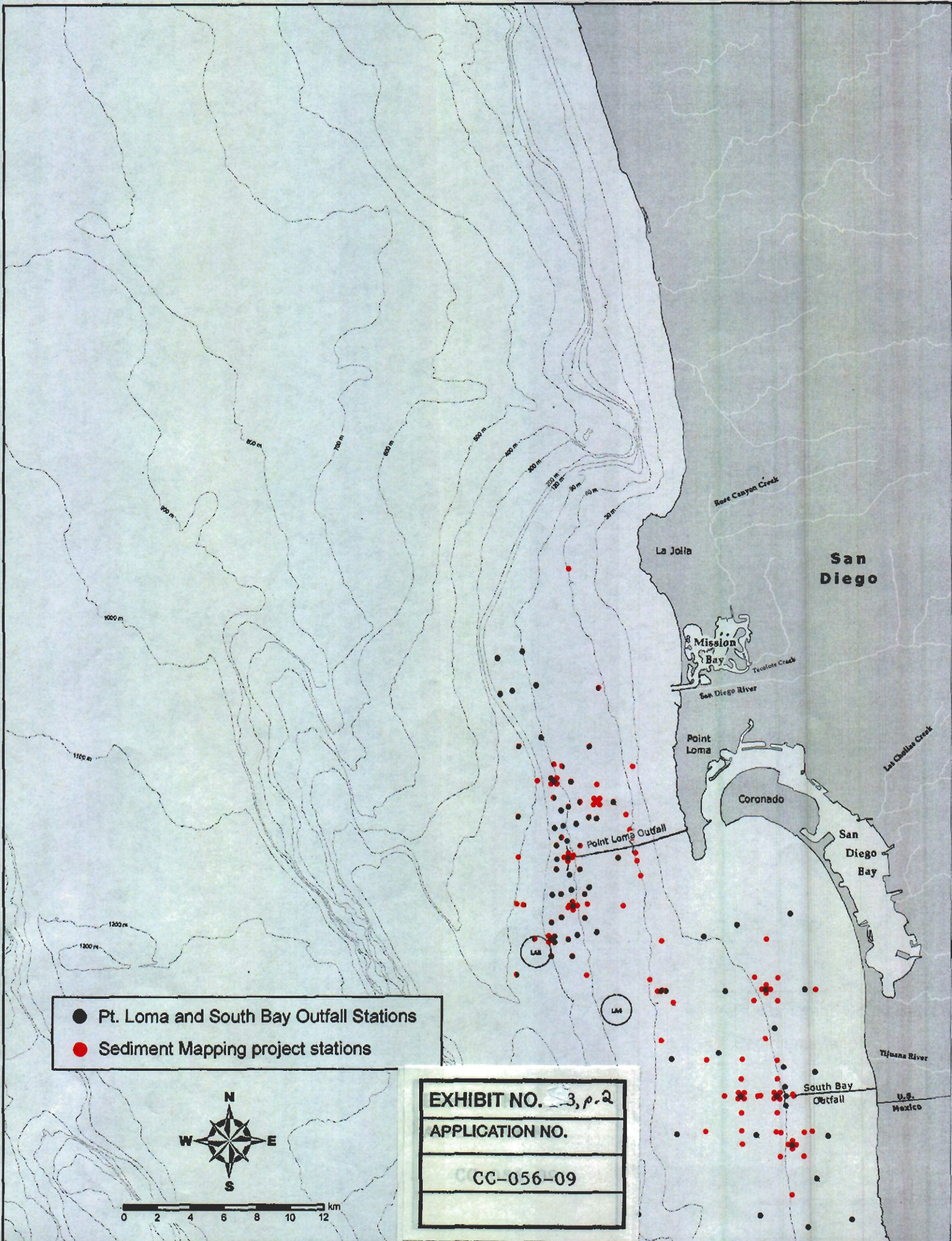
C.3. Collection System



<b>EXHIBIT NO. 2</b>
<b>APPLICATION NO.</b>
<b>CC-056-09</b>



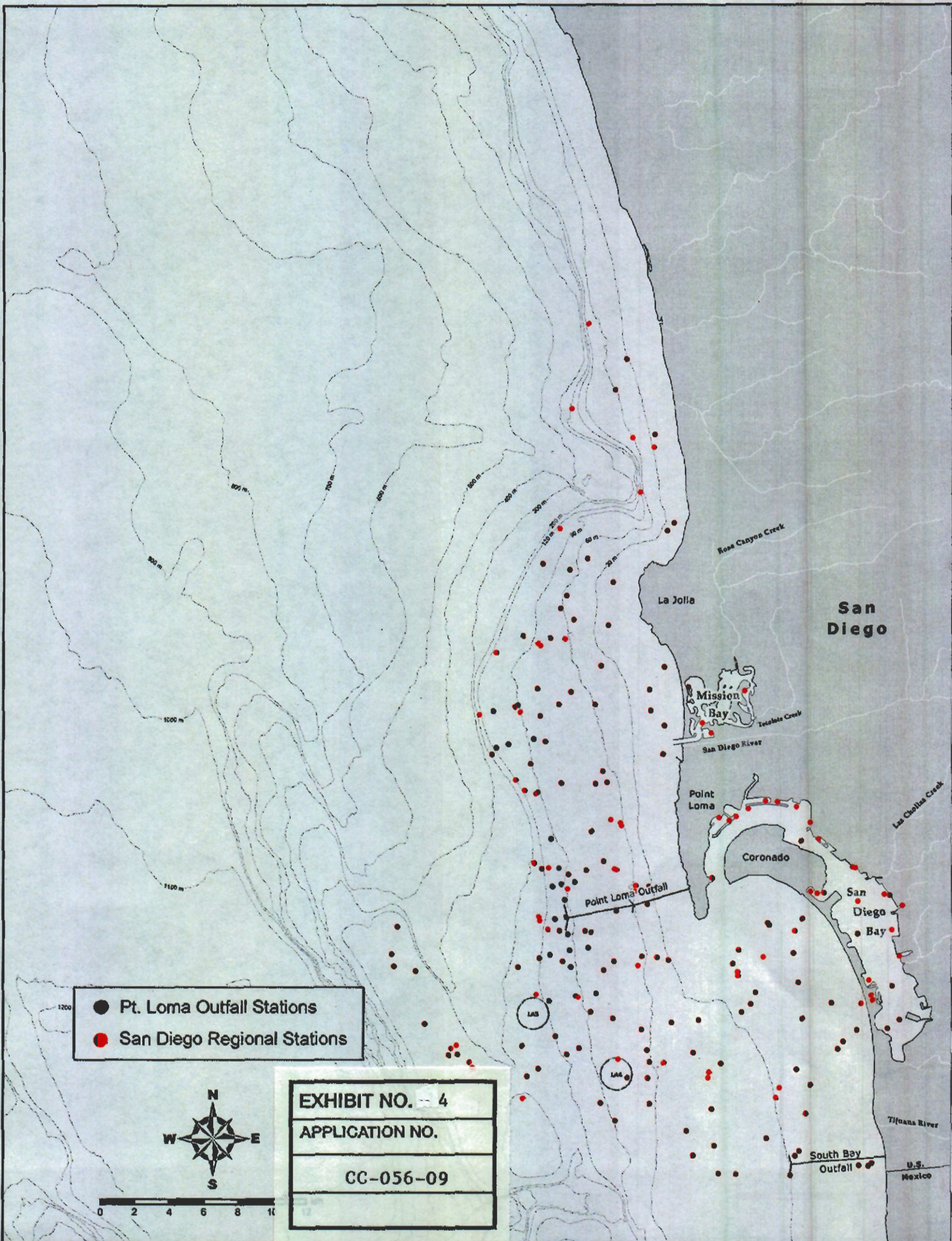




- Pt. Loma and South Bay Outfall Stations
- Sediment Mapping project stations



EXHIBIT NO. 3, p. 2
APPLICATION NO.
CC-056-09



- Pt. Loma Outfall Stations
- ▲ Deep Regional Stations
- ▲ Deep Benthic Pilot Stations

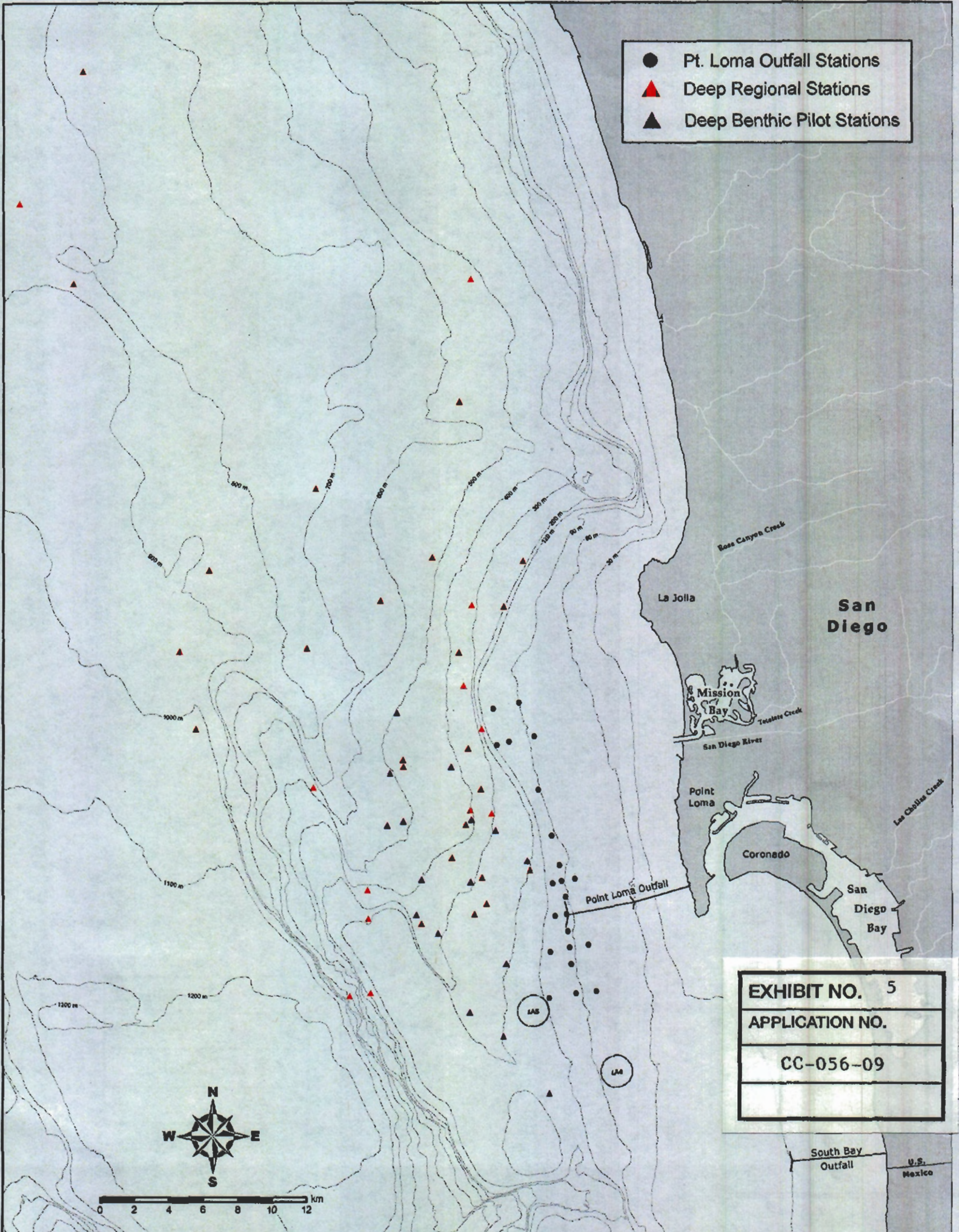
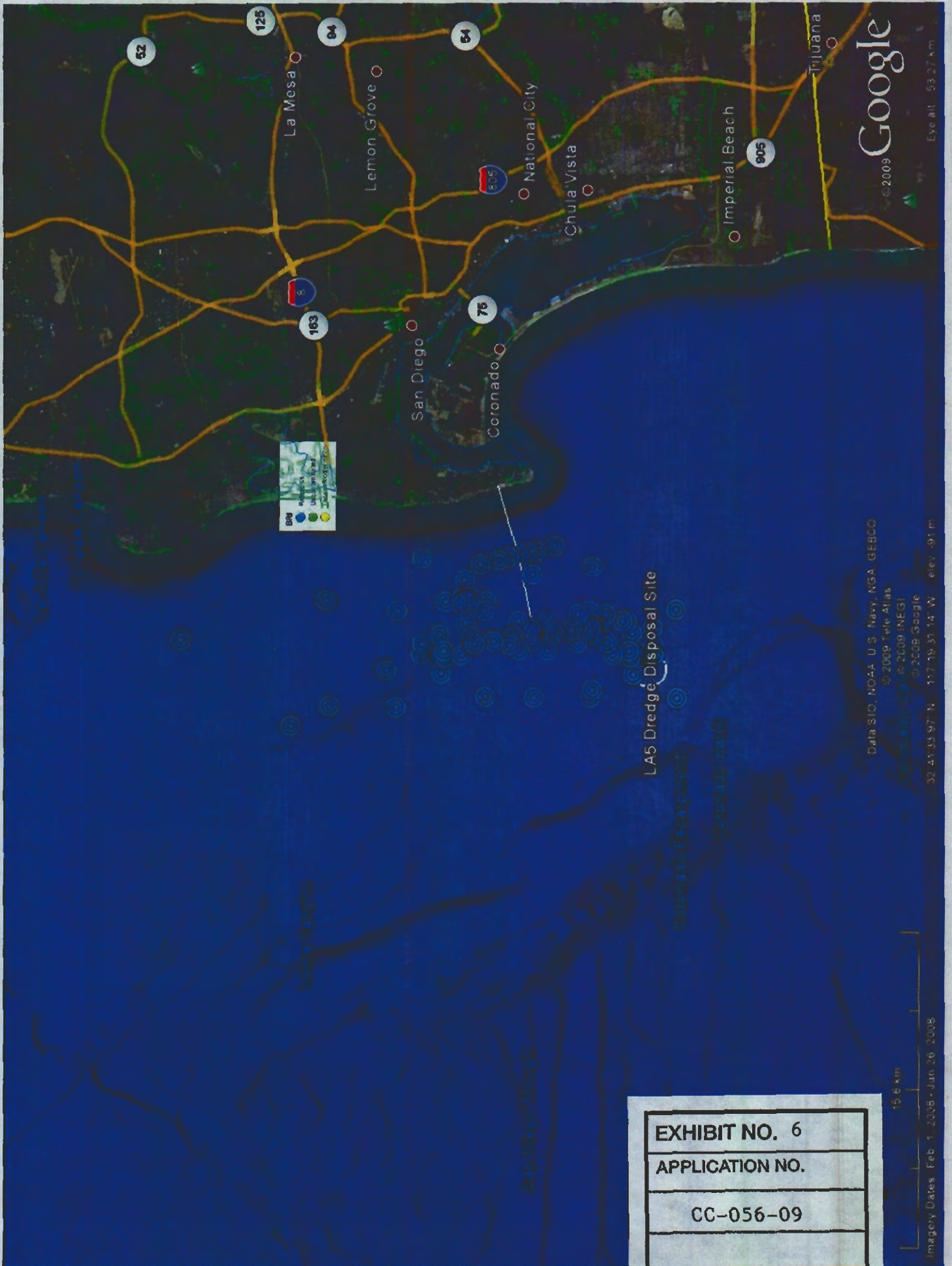


EXHIBIT NO. 5
APPLICATION NO.
CC-056-09

South Bay Outfall U.S. Mexico



Google  
©2009

Eye alt: 53.27 km

Legend:

- Biosphere
- San Diego Bay
- San Diego Harbor
- San Diego Bay

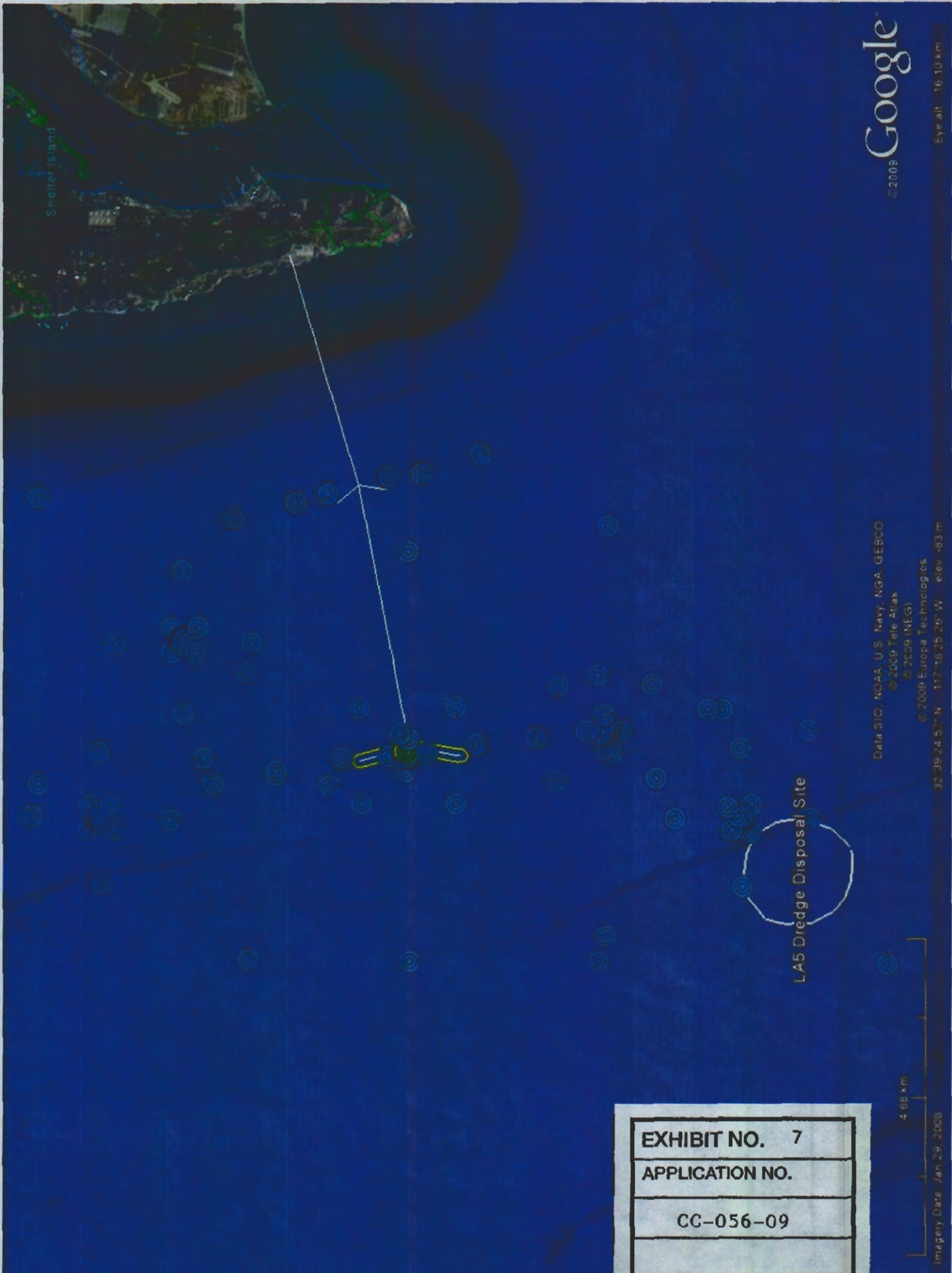
LA5 Dredge Disposal Site

Data: SIO, NOAA, U.S. Navy, NGA, GEBCO  
 © 2009 Tele Atlas  
 © 2009 INEGI  
 © 2008 Google  
 32.413597° N, 117.193114° W, elev: 91 m

EXHIBIT NO. 6
APPLICATION NO.
CC-056-09

15.6 km

Imagery Dates: Feb 1, 2008 - Jun 26, 2008



© 2009 Google

Eye alt: 16.10 km

Data SIO, NOAA, U.S. Navy, NGA, GEBCO  
© 2009 Tele Atlas  
© 2009 INEGI  
© 2009 Europa Technologies

32°39'24.57\"/>

LA5 Dredge Disposal Site

4.68 km

Imagery Date: Jan 29, 2008

EXHIBIT NO. 7
APPLICATION NO.
CC-056-09

Data SIO, NOAA, U.S. Navy, NGA, GEBCO  
© 2009 Tele Atlas  
© 2009 INEGI  
© 2008 Google  
32.3652707 N, 117.1938087 W, elev: -89 m

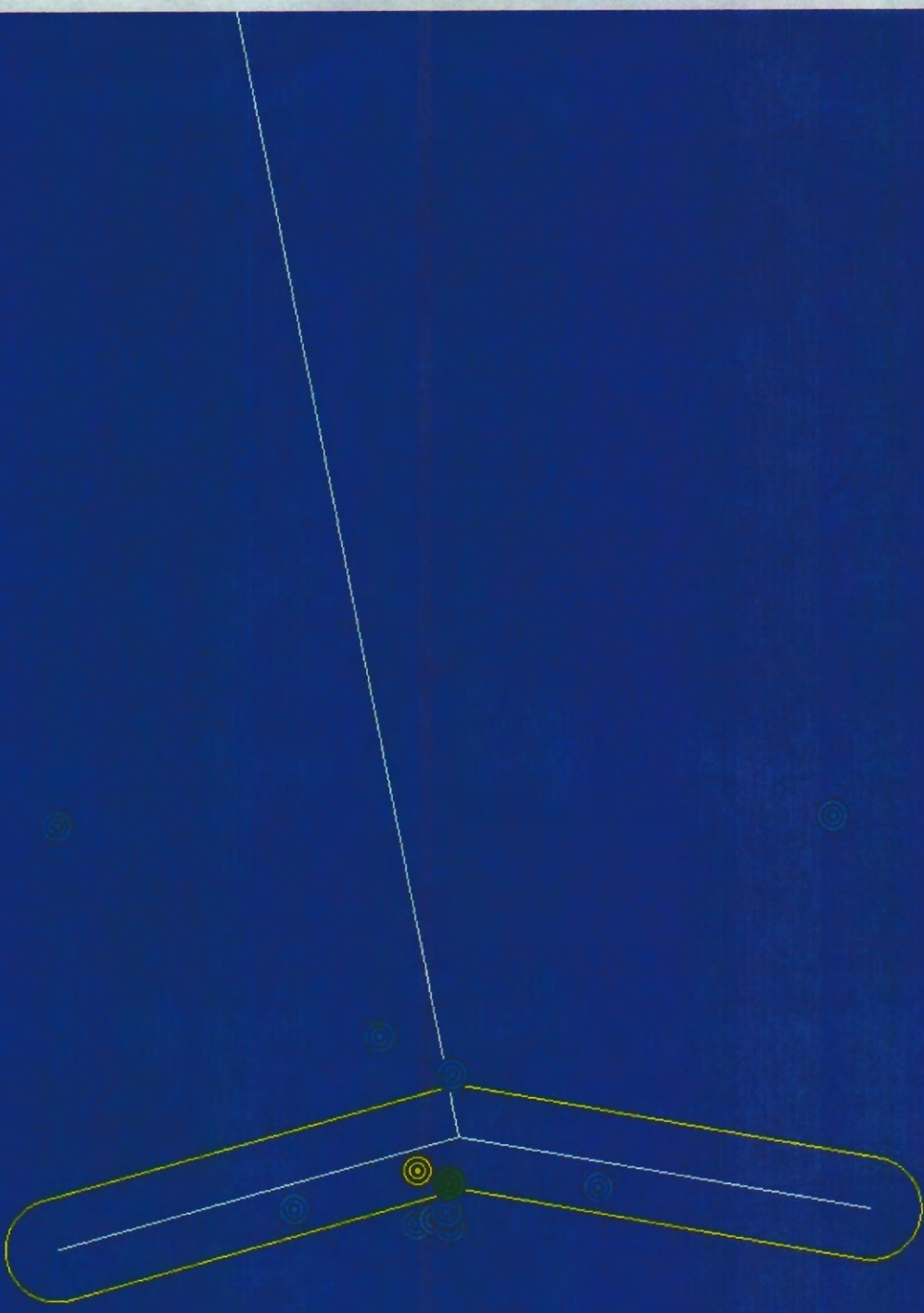


EXHIBIT NO. 8
APPLICATION NO.
CC-056-09



**APPENDIX I**  
**DEFINITION OF TERMS**

**ACUTE TOXICITY**

a. Acute Toxicity (TUa)

Expressed in Toxic Units Acute (TUa)

$$TUa = \frac{100}{96\text{-hr LC } 50\%}$$

b. Lethal Concentration 50% (LC 50)

LC 50 (percent waste giving 50% survival of test organisms) shall be determined by static or continuous flow bioassay techniques using standard marine test species as specified in Appendix III, Chapter II. If specific identifiable substances in wastewater can be demonstrated by the discharger as being rapidly rendered harmless upon discharge to the marine environment, but not as a result of dilution, the LC 50 may be determined after the test samples are adjusted to remove the influence of those substances.

When it is not possible to measure the 96-hour LC 50 due to greater than 50 percent survival of the test species in 100 percent waste, the toxicity concentration shall be calculated by the expression:

$$TUa = \frac{\log(100 - S)}{1.7}$$

where:

S = percentage survival in 100% waste. If S > 99, TUa shall be reported as zero.

**AREAS OF SPECIAL BIOLOGICAL SIGNIFICANCE (ASBS)** are those areas designated by the State Water Board as ocean areas requiring protection of species or biological communities to the extent that alteration of natural water quality is undesirable. All Areas of Special Biological Significance are also classified as a subset of STATE WATER QUALITY PROTECTION AREAS.

**CHLORDANE** shall mean the sum of chlordane-alpha, chlordane-gamma, chlordene-alpha, chlordene-gamma, nonachlor-alpha, nonachlor-gamma, and oxychlordane.

**CHRONIC TOXICITY:** This parameter shall be used to measure the acceptability of waters for supporting a healthy marine biota until improved methods are developed to evaluate biological response.

a. Chronic Toxicity (TUc)

Expressed as Toxic Units Chronic (TUc)

$$TUc = \frac{100}{NOEL}$$

\* See Appendix I for definition of terms.

EXHIBIT NO. 9
APPLICATION NO.
CC-056-09
Ocean Plan Definitions



b. No Observed Effect Level (NOEL)

The NOEL is expressed as the maximum percent effluent or receiving water that causes no observable effect on a test organism, as determined by the result of a critical life stage toxicity test listed in Appendix II.

DDT shall mean the sum of 4,4'DDT, 2,4'DDT, 4,4'DDE, 2,4'DDE, 4,4'DDD, and 2,4'DDD.

DEGRADE: Degradation shall be determined by comparison of the waste field and reference site(s) for characteristic species diversity, population density, contamination, growth anomalies, debility, or supplanting of normal species by undesirable plant and animal species. Degradation occurs if there are significant differences in any of three major biotic groups, namely, demersal fish, benthic invertebrates, or attached algae. Other groups may be evaluated where benthic species are not affected, or are not the only ones affected.

DICHLOROBENZENES shall mean the sum of 1,2- and 1,3-dichlorobenzene.

DOWNSTREAM OCEAN WATERS shall mean waters downstream with respect to ocean currents.

DREDGED MATERIAL: Any material excavated or dredged from the navigable waters of the United States, including material otherwise referred to as "spoil".

ENCLOSED BAYS are indentations along the coast which enclose an area of oceanic water within distinct headlands or harbor works. Enclosed bays include all bays where the narrowest distance between headlands or outermost harbor works is less than 75 percent of the greatest dimension of the enclosed portion of the bay. This definition includes but is not limited to: Humboldt Bay, Bodega Harbor, Tomales Bay, Drakes Estero, San Francisco Bay, Morro Bay, Los Angeles Harbor, Upper and Lower Newport Bay, Mission Bay, and San Diego Bay.

ENDOSULFAN shall mean the sum of endosulfan-alpha and -beta and endosulfan sulfate.

ESTUARIES AND COASTAL LAGOONS are waters at the mouths of streams that serve as mixing zones for fresh and ocean waters during a major portion of the year. Mouths of streams that are temporarily separated from the ocean by sandbars shall be considered as estuaries. Estuarine waters will generally be considered to extend from a bay or the open ocean to the upstream limit of tidal action but may be considered to extend seaward if significant mixing of fresh and salt water occurs in the open coastal waters. The waters described by this definition include but are not limited to the Sacramento-San Joaquin Delta as defined by Section 12220 of the California Water Code, Suisun Bay, Carquinez Strait downstream to Carquinez Bridge, and appropriate areas of the Smith, Klamath, Mad, Eel, Noyo, and Russian Rivers.

HALOMETHANES shall mean the sum of bromoform, bromomethane (methyl bromide) and chloromethane (methyl chloride).

HCH shall mean the sum of the alpha, beta, gamma (lindane) and delta isomers of hexachlorocyclohexane.

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\* See Appendix I for definition of terms.

INITIAL DILUTION is the process which results in the rapid and irreversible turbulent mixing of wastewater with ocean water around the point of discharge.

For a submerged buoyant discharge, characteristic of most municipal and industrial wastes that are released from the submarine outfalls, the momentum of the discharge and its initial buoyancy act together to produce turbulent mixing. Initial dilution in this case is completed when the diluting wastewater ceases to rise in the water column and first begins to spread horizontally.

For shallow water submerged discharges, surface discharges, and nonbuoyant discharges, characteristic of cooling water wastes and some individual discharges, turbulent mixing results primarily from the momentum of discharge. Initial dilution, in these cases, is considered to be completed when the momentum induced velocity of the discharge ceases to produce significant mixing of the waste, or the diluting plume reaches a fixed distance from the discharge to be specified by the Regional Board, whichever results in the lower estimate for initial dilution.

KELP BEDS, for purposes of the bacteriological standards of this plan, are significant aggregations of marine algae of the genera Macrocystis and Nereocystis. Kelp beds include the total foliage canopy of Macrocystis and Nereocystis plants throughout the water column.

MARICULTURE is the culture of plants and animals in marine waters independent of any pollution source.

MATERIAL: (a) In common usage: (1) the substance or substances of which a thing is made or composed (2) substantial; (b) For purposes of this Ocean Plan relating to waste disposal, dredging and the disposal of dredged material and fill, MATERIAL means matter of any kind or description which is subject to regulation as waste, or any material dredged from the navigable waters of the United States. See also, DREDGED MATERIAL.

MDL (Method Detection Limit) is the minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than zero, as defined in 40 CFR PART 136 Appendix B.

MINIMUM LEVEL (ML) is the concentrations at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method-specified sample weights, volumes and processing steps have been followed.

NATURAL LIGHT: Reduction of natural light may be determined by the Regional Board by measurement of light transmissivity or total irradiance, or both, according to the monitoring needs of the Regional Board.

OCEAN WATERS are the territorial marine waters of the State as defined by California law to the extent these waters are outside of enclosed bays, estuaries, and coastal lagoons. If a discharge outside the territorial waters of the State could affect the quality of the waters of the State, the discharge may be regulated to assure no violation of the Ocean Plan will occur in ocean waters.

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\* See Appendix I for definition of terms.

PAHs (polynuclear aromatic hydrocarbons) shall mean the sum of acenaphthylene, anthracene, 1,2-benzanthracene, 3,4-benzofluoranthene, benzo[k]fluoranthene, 1,12-benzoperylene, benzo[a]pyrene, chrysene, dibenzo[ah]anthracene, fluorene, indeno[1,2,3-cd]pyrene, phenanthrene and pyrene.

PCBs (polychlorinated biphenyls) shall mean the sum of chlorinated biphenyls whose analytical characteristics resemble those of Aroclor-1016, Aroclor-1221, Aroclor-1232, Aroclor-1242, Aroclor-1248, Aroclor-1254 and Aroclor-1260.

SHELLFISH are organisms identified by the California Department of Health Services as shellfish for public health purposes (i.e., mussels, clams and oysters).

SIGNIFICANT difference is defined as a statistically significant difference in the means of two distributions of sampling results at the 95 percent confidence level.

STATE WATER QUALITY PROTECTION AREAS (SWQPAs) are nonterrestrial marine or estuarine areas designated to protect marine species or biological communities from an undesirable alteration in natural water quality. All Areas of Special Biological Significance (ASBS) that were previously designated by the State Water Board in Resolutions 74-28, 74-32, and 75-61 are now also classified as a subset of State Water Quality Protection Areas and require special protections afforded by this Plan.

TCDD EQUIVALENTS shall mean the sum of the concentrations of chlorinated dibenzodioxins (2,3,7,8-CDDs) and chlorinated dibenzofurans (2,3,7,8-CDFs) multiplied by their respective toxicity factors, as shown in the table below.

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

WASTE: As used in this Plan, waste includes a discharger's total discharge, of whatever origin, i.e., gross, not net, discharge.

WATER RECLAMATION: The treatment of wastewater to render it suitable for reuse, the transportation of treated wastewater to the place of use, and the actual use of treated wastewater for a direct beneficial use or controlled use that would not otherwise occur.

\* See Appendix I for definition of terms.

- e. Waste\* that contains pathogenic organisms or viruses should be discharged a sufficient distance from shellfishing\* and water-contact sports areas to maintain applicable bacterial standards without disinfection. Where conditions are such that an adequate distance cannot be attained, reliable disinfection in conjunction with a reasonable separation of the discharge point from the area of use must be provided. Disinfection procedures that do not increase effluent toxicity and that constitute the least environmental and human hazard should be used.
3. Areas of Special Biological Significance
    - a. ASBS\* shall be designated by the SWRCB following the procedures provided in Appendix IV. A list of ASBS\* is available in Appendix V.
  4. Combined Sewer Overflow: Notwithstanding any other provisions in this plan, discharges from the City of San Francisco's combined sewer system are subject to the US EPA's Combined Sewer Overflow Policy.

B. Table A Effluent Limitations

**TABLE A  
EFFLUENT LIMITATIONS**

	Unit of Measurement	Limiting Concentrations		
		Monthly (30-day Average)	Weekly (7-day Average)	Maximum at any time
Grease and Oil	mg/l	25.	40.	75.
Suspended Solids			See below +	
Settleable Solids	MI/l	1.0	1.5	3.0
Turbidity	NTU	75.	100.	225.
PH	Units		Within limit of 6.0 to 9.0 at all times	

Table A Notes:

- + Suspended Solids: Dischargers shall, as a 30-day average, remove 75% of suspended solids from the influent stream before discharging wastewaters to the ocean\*, except that the effluent limitation to be met shall not be lower than 60 mg/l. Regional Boards may recommend that the SWRCB (Chapter IIIJ), with the concurrence of the Environmental Protection Agency, adjust the lower effluent concentration limit (the 60 mg/l above) to suit the environmental and effluent characteristics of the discharge. As a further consideration in making such recommendation for adjustment, Regional Boards should evaluate effects on existing and potential water\* reclamation projects.

If the lower effluent concentration limit is adjusted, the discharger shall remove 75% of suspended solids from the influent stream at any time the influent concentration exceeds four times such adjusted effluent limit.

1. Table A effluent limitations apply only to publicly owned treatment works and industrial discharges for which Effluent Limitations Guidelines have not been established pursuant to Sections 301, 302, 304, or 306 of the Federal Clean Water Act.

\* See Appendix I for definition of terms.

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Ocean Plan - TABLE A+B	

2. Table A effluent limitations shall apply to a discharger's total effluent, of whatever origin (i.e., gross, not net, discharge), except where otherwise specified in this Plan.
3. The SWRCB is authorized to administer and enforce effluent limitations established pursuant to the Federal Clean Water Act. Effluent limitations established under Sections 301, 302, 306, 307, 316, 403, and 405 of the aforementioned Federal Act and administrative procedures pertaining thereto are included in this plan by reference. Compliance with Table A effluent limitations, or Environmental Protection Agency Effluent Limitations Guidelines for industrial discharges, based on Best Practicable Control Technology, shall be the minimum level of treatment acceptable under this plan, and shall define reasonable treatment and waste control technology.

C. Implementation Provisions for Table B

1. Effluent concentrations calculated from Table B water quality objectives shall apply to a discharger's total effluent, of whatever origin (i.e., gross, not net, discharge), except where otherwise specified in this Plan.
2. If the Regional Water Board determines, using the procedures in Appendix VI, that a pollutant is discharged into ocean\* waters at levels which will cause, have the reasonable potential to cause, or contribute to an excursion above a Table B water quality objective, the Regional Water Board shall incorporate a water quality-based effluent limitation in the Waste Discharge Requirement for the discharge of that pollutant.
3. Effluent limitations shall be imposed in a manner prescribed by the State Water Board such that the concentrations set forth below as water quality objectives shall not be exceeded in the receiving water upon completion of initial\* dilution, except that objectives indicated for radioactivity shall apply directly to the undiluted waste\* effluent.
4. Calculation of Effluent Limitations
  - a. Effluent limitations for water quality objectives listed in Table B, with the exception of acute\* toxicity and radioactivity, shall be determined through the use of the following equation:

**Equation 1:**  $C_e = C_o + D_m (C_o - C_s)$

where:

$C_e$  = the effluent concentration limit, ug/l

$C_o$  = the concentration (water quality objective) to be met at the completion of initial\* dilution, ug/l

$C_s$  = background seawater concentration (see Table C below), ug/l

$D_m$  = minimum probable initial\* dilution expressed as parts seawater per part wastewater.

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\* See Appendix I for definition of terms.

**TABLE B  
WATER QUALITY OBJECTIVES**

	Units of <u>Measurement</u>	<u>Limiting Concentrations</u>		
		<u>6-Month Median</u>	<u>Daily Maximum</u>	<u>Instantaneous Maximum</u>
<b>OBJECTIVES FOR PROTECTION OF MARINE AQUATIC LIFE</b>				
Arsenic	ug/l	8.	32.	80.
Cadmium	ug/l	1.	4.	10.
Chromium (Hexavalent) (see below, a)	ug/l	2.	8.	20.
Copper	ug/l	3.	12.	30.
Lead	ug/l	2.	8.	20.
Mercury	ug/l	0.04	0.16	0.4
Nickel	ug/l	5.	20.	50.
Selenium	ug/l	15.	60.	150.
Silver	ug/l	0.7	2.8	7.
Zinc	ug/l	20.	80.	200.
Cyanide (see below, b)	ug/l	1.	4.	10.
Total Chlorine Residual (For intermittent chlorine sources see below, c)	ug/l	2.	8.	60.
Ammonia (expressed as nitrogen)	ug/l	600.	2400.	6000.
Acute* Toxicity	TUa	N/A	0.3	N/A
Chronic* Toxicity	TUc	N/A	1.	N/A
Phenolic Compounds (non-chlorinated)	ug/l	30.	120.	300.
Chlorinated Phenolics	ug/l	1.	4.	10.
Endosulfan	ug/l	0.009	0.018	0.027
Endrin	ug/l	0.002	0.004	0.006
HCH*	ug/l	0.004	0.008	0.012
Radioactivity	Not to exceed limits specified in Title 17, Division 1, Chapter 5, Subchapter 4, Group 3, Article 3, Section 30253 of the California Code of Regulations. Reference to Section 30253 is prospective, including future changes to any incorporated provisions of federal law, as the changes take effect.			

\* See Appendix I for definition of terms.

**Table B Continued**

<u>Chemical</u>	<u>30-day Average (ug/l)</u>	
	<u>Decimal Notation</u>	<u>Scientific Notation</u>
<b>OBJECTIVES FOR PROTECTION OF HUMAN HEALTH – NONCARCINOGENS</b>		
acrolein	220.	$2.2 \times 10^2$
antimony	1,200.	$1.2 \times 10^3$
bis(2-chloroethoxy) methane	4.4	$4.4 \times 10^0$
bis(2-chloroisopropyl) ether	1,200.	$1.2 \times 10^3$
chlorobenzene	570.	$5.7 \times 10^2$
chromium (III)	190,000.	$1.9 \times 10^5$
di-n-butyl phthalate	3,500.	$3.5 \times 10^3$
dichlorobenzenes*	5,100.	$5.1 \times 10^3$
diethyl phthalate	33,000.	$3.3 \times 10^4$
dimethyl phthalate	820,000.	$8.2 \times 10^5$
4,6-dinitro-2-methylphenol	220.	$2.2 \times 10^2$
2,4-dinitrophenol	4.0	$4.0 \times 10^0$
ethylbenzene	4,100.	$4.1 \times 10^3$
fluoranthene	15.	$1.5 \times 10^1$
hexachlorocyclopentadiene	58.	$5.8 \times 10^1$
nitrobenzene	4.9	$4.9 \times 10^0$
thallium	2.	$2. \times 10^0$
toluene	85,000.	$8.5 \times 10^4$
tributyltin	0.0014	$1.4 \times 10^{-3}$
1,1,1-trichloroethane	540,000.	$5.4 \times 10^5$
<b>OBJECTIVES FOR PROTECTION OF HUMAN HEALTH – CARCINOGENS</b>		
acrylonitrile	0.10	$1.0 \times 10^{-1}$
aldrin	0.000022	$2.2 \times 10^{-5}$
benzene	5.9	$5.9 \times 10^0$
benzidine	0.000069	$6.9 \times 10^{-5}$
beryllium	0.033	$3.3 \times 10^{-2}$
bis(2-chloroethyl) ether	0.045	$4.5 \times 10^{-2}$
bis(2-ethylhexyl) phthalate	3.5	$3.5 \times 10^0$
carbon tetrachloride	0.90	$9.0 \times 10^{-1}$
chlordane*	0.000023	$2.3 \times 10^{-5}$
chlorodibromomethane	8.6	$8.6 \times 10^0$

\* See Appendix I for definition of terms.

**Table B Continued**

<u>Chemical</u>	<u>30-day Average (ug/l)</u>	
	<u>Decimal Notation</u>	<u>Scientific Notation</u>
<b>OBJECTIVES FOR PROTECTION OF HUMAN HEALTH – CARCINOGENS</b>		
chloroform	130.	$1.3 \times 10^2$
DDT*	0.00017	$1.7 \times 10^{-4}$
1,4-dichlorobenzene	18.	$1.8 \times 10^1$
3,3'-dichlorobenzidine	0.0081	$8.1 \times 10^{-3}$
1,2-dichloroethane	28.	$2.8 \times 10^1$
1,1-dichloroethylene	0.9	$9 \times 10^{-1}$
dichlorobromomethane	6.2	$6.2 \times 10^0$
dichloromethane	450.	$4.5 \times 10^2$
1,3-dichloropropene	8.9	$8.9 \times 10^0$
dieldrin	0.00004	$4.0 \times 10^{-5}$
2,4-dinitrotoluene	2.6	$2.6 \times 10^0$
1,2-diphenylhydrazine	0.16	$1.6 \times 10^{-1}$
halomethanes*	130.	$1.3 \times 10^2$
heptachlor	0.00005	$5 \times 10^{-5}$
heptachlor epoxide	0.00002	$2 \times 10^{-5}$
hexachlorobenzene	0.00021	$2.1 \times 10^{-4}$
hexachlorobutadiene	14.	$1.4 \times 10^1$
hexachloroethane	2.5	$2.5 \times 10^0$
isophorone	730.	$7.3 \times 10^2$
N-nitrosodimethylamine	7.3	$7.3 \times 10^0$
N-nitrosodi-N-propylamine	0.38	$3.8 \times 10^{-1}$
N-nitrosodiphenylamine	2.5	$2.5 \times 10^0$
PAHs*	0.0088	$8.8 \times 10^{-3}$
PCBs*	0.000019	$1.9 \times 10^{-5}$
TCDD equivalents*	0.0000000039	$3.9 \times 10^{-9}$
1,1,2,2-tetrachloroethane	2.3	$2.3 \times 10^0$
tetrachloroethylene	2.0	$2.0 \times 10^0$
toxaphene	0.00021	$2.1 \times 10^{-4}$
trichloroethylene	27.	$2.7 \times 10^1$
1,1,2-trichloroethane	9.4	$9.4 \times 10^0$
2,4,6-trichlorophenol	0.29	$2.9 \times 10^{-1}$
vinyl chloride	36.	$3.6 \times 10^1$

\* See Appendix I for definition of terms.



Table B Notes:

- a) Dischargers may at their option meet this objective as a total chromium objective.
- b) If a discharger can demonstrate to the satisfaction of the Regional Board (subject to EPA approval) that an analytical method is available to reliably distinguish between strongly and weakly complexed cyanide, effluent limitations for cyanide may be met by the combined measurement of free cyanide, simple alkali metal cyanides, and weakly complexed organometallic cyanide complexes. In order for the analytical method to be acceptable, the recovery of free cyanide from metal complexes must be comparable to that achieved by the approved method in 40 CFR PART 136, as revised May 14, 1999.
- c) Water quality objectives for total chlorine residual applying to intermittent discharges not exceeding two hours, shall be determined through the use of the following equation:

$$\log y = -0.43 (\log x) + 1.8$$

where: y = the water quality objective (in ug/l) to apply when chlorine is being discharged;  
x = the duration of uninterrupted chlorine discharge in minutes.

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E. Biological Characteristics

1. Marine communities, including vertebrate, invertebrate, and plant species, shall not be degraded\*.
2. The natural taste, odor, and color of fish, shellfish\*, or other marine resources used for human consumption shall not be altered.
3. The concentration of organic materials in fish, shellfish\* or other marine resources used for human consumption shall not bioaccumulate to levels that are harmful to human health.

F. Radioactivity

1. Discharge of radioactive waste\* shall not degrade\* marine life.

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\* See Appendix I for definition of terms.

- <sup>4</sup> DDD (dichlorodiphenyldichloroethane), DDE (dichlorodiphenyldichloroethylene), and DDT (dichlorodiphenyltrichloroethane) represent the sum of 4,4' DDT; 2,4' DDT; 4,4' DDE; 2,4' DDE; 4,4' DDD; and 2,4' DDD.
- <sup>5</sup> Chlordanes represent the sum of chlordane-alpha, chlordane-gamma, nonachlor-alpha, nonachlor-gamma, and oxychlordane.
- <sup>6</sup> Halomethanes represent the sum of bromoform, bromomethane (methyl bromide), and chloromethane (methyl chloride).
- <sup>7</sup> PAHs (polynuclear aromatic hydrocarbons) represent the sum of acenaphthylene; anthracene; 1,2-benzanthracene; 3,4-benzofluoranthene; benzo[k]fluoranthene; 1,12-benzoperylene; benzo[a]pyrene; chrysene; dibenzo[a,h]anthracene; fluorene; indeno[1,2,3-cd]pyrene; phenanthrene; and pyrene.
- <sup>8</sup> PCBs (polychlorinated biphenyls) represent the sum of chlorinated biphenyls whose analytical characteristics resemble those of Aroclor-1016, Aroclor-1221, Aroclor-1232, Aroclor-1242, Aroclor-1248, Aroclor-1254, and Aroclor-1260.
- <sup>9</sup> Endosulfan shall mean the sum of alpha-endosulfan, beta-endosulfan, and endosulfan sulfate.
- <sup>10</sup> USEPA Method 1631E, with a quantitation level of 0.5 ppt (0.5 ng/L), shall be used to analyze total mercury

**G. Interim Effluent Limitations – Not Applicable**

**H. Land Discharge Specifications – Not Applicable**

**I. Reclamation Specifications – Not Applicable**

**V. RATIONALE FOR RECEIVING WATER LIMITATIONS**

Receiving water limitations of this Order are derived from the water quality objectives for ocean waters established by the Basin Plan and the Ocean Plan.

Receiving water limits for enterococcus in ocean waters beyond the outer limit of the territorial seas are based on CWA Section 304(a) water quality criteria and must be achieved beyond the zone of initial dilution in areas where primary contact recreation, as defined in USEPA guidance, occurs. USEPA describes the "primary contact recreation" use as protective when the potential for ingestion of, or immersion in, water is likely. Activities usually include swimming, water-skiing, skin-diving, surfing, and other activities likely to result in immersion. (*Water Quality Standards Handbook*, EPA-823-B-94-005a, 1994, p. 2-2.) The nature and extent of primary contact recreational use in federal waters is noted and reported during offshore monitoring.

**VI. RATIONALE FOR MONITORING AND REPORTING REQUIREMENTS**

Section 122.48 requires that all NPDES permits specify requirements for recording and reporting monitoring results. Water Code Sections 13267 and 13383 authorizes the Regional Water Board to require technical and monitoring reports. The Monitoring and Reporting Program (MRP), Attachment E of this Order, establishes monitoring and reporting requirements to implement federal and State requirements. The following provides the rationale for the monitoring and reporting requirements contained in the MRP for this facility.

EXHIBIT NO. 11
APPLICATION NO.
CC-056-09
RWQCB Monitoring Requirements

## **A. Influent Monitoring**

Influent monitoring is required to determine the effectiveness of pretreatment and non-industrial source control programs, to assess the performance of treatment facilities, and to evaluate compliance with effluent limitations.

Influent monitoring requirements have been carried over from the previous Order.

## **B. Effluent Monitoring**

Effluent monitoring is required to determine compliance with the permit conditions and to identify operational problems and improve plant performance. Effluent monitoring also provides information on wastewater characteristics and flows for use in interpreting water quality and biological data.

Effluent monitoring requirements have been carried over from the previous Order. In addition, weekly monitoring for total coliform, fecal coliform, and enterococcus has been established to determine if the effluent is contributing to exceedances of water quality objectives for these parameters. Further, continuous monitoring for total residual chlorine has been established due to the Facility's plans to implement chlorination.

## **C. Whole Effluent Toxicity Testing Requirements**

Whole effluent toxicity testing (acute and chronic) have been established to determine compliance with the effluent limitation for chronic toxicity, and the performance goal for acute toxicity.

## **D. Receiving Water Monitoring**

### **1. Core Monitoring Program for Surface Water**

A monitoring program at the current discharge site has existed since 1991 and has focused on physical, chemical, and biological patterns in the region. The monitoring program underwent significant revision in 2003 to reallocate the level of effort that was in place at the time, in order to address crucial processes not addressed by earlier monitoring programs and provide a regional framework for interpreting discharge-related effects. The existing monitoring program reflects the principles expressed in the "Model Monitoring Program for Large Ocean Dischargers in Southern California" (SCCWRP, 2002). Since 2003, the following three components have constituted the Discharger's receiving water monitoring program: (1) Core Monitoring; (2) Strategic Process Studies; and (3) Regional Monitoring. These three components are needed to evaluate compliance with the permit, federal 301(h) decision criteria, and State water quality standards; and to assess the effects of the discharge on the marine environment.

There are five components to the Core Monitoring Program: general water quality monitoring; bacteriological monitoring of shoreline, kelp bed, and offshore waters; sediment monitoring for grain size, chemistry, and benthic infauna community

structure; monitoring for fish and megabenthic invertebrate communities, and contaminant body burdens of fishes; and monitoring of kelp bed canopy cover.

**a. General Water Quality**

The offshore and kelp bed water quality sampling program is designed to help evaluate the fate of the wastewater plume under various conditions and to determine if the water quality objectives contained in the Ocean Plan are being achieved in the receiving water.

Salinity, temperature, density, pH, transmissivity, dissolved oxygen, and chlorophyll a are monitored throughout the entire water column quarterly at and five times per month at eight kelp bed stations. Ammonium is monitored at those stations which are located within State jurisdictional waters, on a quarterly basis and at the same discrete depths specified for bacterial monitoring.

General water quality monitoring requirements have been carried over from the previous Order.

**b. Microbiological**

Bacteria indicator sampling is required to help track the wastewater plume in federal and State offshore waters and evaluate compliance with recreational water quality standards in State waters within three nautical miles of the shoreline. In federal and State offshore waters, the nature and extent of primary contact recreational use in federal waters is noted and reported. A grid of 36 offshore stations is monitored quarterly for enterococcus. Eight kelp bed stations and eight shoreline stations are monitored five times per month for enterococcus, total coliform, and fecal coliform. At offshore and kelp bed stations, these parameters are monitored in the water column at fixed intervals. At shoreline stations, these parameters are monitored in the surf zone using grab samples.

General microbiological monitoring requirements have been carried over from the previous Order.

**c. Sediment**

The physical and chemical properties of sediments and the biological communities that live in or on these sediments are monitored to evaluate potential effects of the PLOO discharge and compliance with narrative water quality standards in the Ocean Plan. The core sediment monitoring program is designed to assess spatial and temporal trends. A core set of 12 to 22 stations are monitored twice each year, in January and July, using grab samples. Twelve primary

stations are located along the 98-meter depth contour and 10 secondary stations are located along the 88-meter and 116-meter depth contours. The requirement for sampling at the secondary stations can be relaxed by the Regional Water Board and USEPA to allow the Discharger to participate in Bight-wide regional monitoring efforts. For sediment chemistry, monitored parameters include sediment grain size, metals, PCBs and chlorinated pesticides, and PAHs. Benthic community structure is evaluated using separate grab samples, in January and July.

General sediment monitoring requirements have been carried over from the previous Order.

**d. Fish and Invertebrate**

Epibenthic trawls at four trawl zone stations are used to assess the structure of demersal fish and megabenthic invertebrate communities and to evaluate compliance with narrative water quality standards in the Ocean Plan. Chemical analyses of fish tissues are performed annually on target species collected at or near the four trawl and two rig fishing stations. Species targeted are representative of those caught by recreational and/or commercial fishery activities in the region. Liver tissue is monitored at trawl stations and muscle tissue is monitored at rig fishing stations to assess the uptake of pollutants in fish species commonly consumed by humans in the region. The tissues are analyzed for lipids, metals, PCBs, and chlorinated pesticides.

General fish and invertebrate monitoring has been carried over from the previous Order.

**e. Kelp Bed Canopy**

Annual kelp bed surveys are intended to assess the extent to which the discharge of wastes may affect the aerial extent and health of coastal kelp beds. This monitoring effort is conducted with other ocean dischargers in the San Diego Region and covers the entire San Diego Region coastline, from the international boundary to the San Diego Region/Santa Ana Region boundary. In each annual survey, the aerial extent of the various kelp beds are photographed and compared to previous surveys; further investigation is required if significant losses are observed to persist for more than one year.

Kelp bed monitoring has been carried over from the previous Order.

## **E. Strategic Process Studies and Regional Monitoring Requirements**

In addition to Core Monitoring activities, the Discharger is required to conduct Strategic Process Studies and participate in Regional Monitoring activities coordinated by the Southern California Coastal Water Research Project (SCCWRP).

Strategic Process Studies are an integral part of the permit monitoring program and differ from other elements of the monitoring program (e.g., core monitoring, regional monitoring, other permit special studies). They are intended to be short-term and are designed to address specific research or management issues related to receiving water monitoring that are not addressed by core and regional monitoring elements. The scope of special studies is determined by the Discharger, in coordination with the Regional Water Board Executive Officer and USEPA. Each year, the Discharger is required to submit proposals for strategic process studies for the following year's effort. Detailed scopes of work for each study are provided by the Discharger and approved by the Executive Officer and USEPA, prior to study implementation.

The intent of Regional Monitoring activities is to maximize the efforts of all monitoring partners using a more cost-effective monitoring design and best utilize the pooled scientific resources of the region. During these coordinated large-scale sampling efforts, the Discharger's sampling and analytical effort may be reallocated to provide a regional assessment of the impact of the discharge of municipal wastewater to the Southern California Bight. Anticipated modifications to the monitoring program will be coordinated so as to provide a more comprehensive picture of the ecological and statistical significance of monitoring results and determine cumulative impacts of various pollution sources. Under previous permits, the Discharger participated in regional monitoring efforts in 1994, 1998, 2003, and 2008. The Discharger provides its level of effort for Regional Monitoring for Executive Officer and USEPA approval, following the procedures and schedule established for approval of Strategic Process Studies.

## **VII. RATIONALE FOR PROVISIONS**

### **A. Standard Provisions**

Standard conditions that apply to all NPDES permits, in accordance with 40 CFR 122.41, and additional conditions applicable to specified categories of NPDES permits, in accordance with 40 CFR 122.42, are provided in Attachment D to this Order.

40 CFR 122.41(a)(1) and (b) through (n) establish conditions that apply to all State-issued NPDES permits and must be incorporated into a permit either expressly or by reference. If incorporated by reference, a specific citation to the regulations must be included in the permit. 40 CFR 123.25(a)(12) allows the State to omit or modify federal provisions to impose more stringent State requirements. In accordance with 40 CFR 123.25(a)(12), the State-issued permit omits provisions at 40 CFR 122.41(j)(5) and 40 CFR 122.41(k)(2); in lieu of these provisions, the State permit references California Water Code section 13387(e) because enforcement under the Water Code is the more stringent requirement. However standard provisions at 40 CFR 122.41(j)(5) and 40 CFR

122.41(k)(2) are incorporated into the federal permit as standard provisions VI.D and VI.E.

## **B. Special Provisions**

### **1. Reopener Provisions**

Order No. R9-2009-0001 may be reopened and modified, revoked and reissued, or terminated, in accordance with 40 CFR Parts 122, 123, 124, and 125. The Regional Water Board and USEPA may reopen the permit to modify conditions or requirements. Causes for modification include, but are not limited to, promulgation of new regulations by the State Water Board, Regional Water Board, or USEPA, and revisions to the Basin Plan. Also, specific reopener conditions are contained in the permit (e.g., for whole effluent toxicity, toxics mass emission benchmarks, regional monitoring, antidegradation, etc.).

### **2. Special Studies and Additional Monitoring Requirements**

#### **a. Whole Effluent Toxicity (WET)**

- i. Implementing provisions at Section III.C of the Ocean Plan require chronic toxicity monitoring for ocean waste discharges with minimum initial dilution factors between 100 and 350. In addition, the RPA results for this discharge show that the effluent has the reasonable potential to exceed the water quality objective for chronic toxicity. On May 4, 2003 chronic toxicity tests exceeded the existing permit limit of 205 TUc. Based on procedures in the Ocean Plan, a maximum daily limit of 205 TUc is established in the Order and monthly monitoring is carried over from the previous permit.
- ii. Implementing provisions at Section III.C of the Ocean Plan allow for the establishment of acute toxicity monitoring, in addition to chronic, for ocean waste discharges with minimum initial dilution factors between 100 and 350. A performance goal for acute toxicity of 6.42 TUa is established based on "Equation 2" in Section III.C.3.b of the Ocean Plan. Semi-annual acute toxicity monitoring is carried over from the previous permit.
- iii. The previous permit required the Discharger to submit a Toxicity Reduction Evaluation (TRE) workplan to the Regional Water Board and USEPA, 180 days after the permit effective date. This Order requires the Discharger to maintain an up-to-date TRE workplan and to submit an updated workplan to the Regional Water Board and USEPA, 90 days after the effective date of this Order. The TRE workplan describes steps the Discharger intends to follow if the effluent limitation for chronic toxicity (205 TUc) or the performance goal for acute toxicity (6.42 TUa) is exceeded.
- iv. Similar to the existing permit, this Order provides for accelerated toxicity testing upon an exceedance of the chronic toxicity effluent limit, or an excursion above the acute toxicity performance goal. If toxicity is observed in

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

City of San Diego's  
E. W. Blom Point Loma Metropolitan  
Wastewater Treatment Plant and Ocean Outfall  
Application for a Modified NPDES Permit  
Under Sections 301(h) and (j)(5) of the Clean Water Act

Tentative Decision of the  
Regional Administrator  
Pursuant to  
40 CFR Part 125, Subpart G

I have reviewed the attached evaluation analyzing the merits of the application of the City of San Diego's request for the E.W. Blom Point Loma Metropolitan Wastewater Treatment Plant and Ocean Outfall variance from secondary treatment requirements of the Clean Water Act (the Act), pursuant to section 301(h). It is my tentative decision that the Point Loma Wastewater Treatment Plant and Ocean Outfall be granted a variance in accordance with the terms, conditions, and limitations of the attached evaluation, based on sections 301(h) and (j)(5) of the Act.

My decision is based on available information specific to this particular discharge. It is not intended to assess the need for secondary treatment in general, nor does it reflect on the necessity for secondary treatment by other publicly owned treatment works discharging to the marine environment. This decision and the National Pollutant Discharge Elimination System (NPDES) permit implementing this decision are subject to revision on the basis of subsequently acquired information relating to the impact of the less-than-secondary discharge on the marine environment.

Under the procedures of the Permit Regulations, 40 CFR Part 124, public notice and comment regarding this tentative decision and accompanying draft NPDES permit will be made available to interested persons. Following the public comment period on this tentative decision and draft permit, a final decision and permit will be issued under the procedures in 40 CFR Part 124.

This tentative decision is issued without prejudice to the rights of any party to address the legal issue of the applicability of 33 U.S.C. section 1311(j)(5) to the City's future NPDES permits.

Dated: December 2, 2008

//S//

Wayne Nastri  
Regional Administrator

EXHIBIT NO. 12
APPLICATION NO.
CC-056-09
EPA TDD



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## INTRODUCTION

The City of San Diego, California (the applicant or City) is requesting a renewal of its variance (sometimes informally called a "waiver" or "modification") under section 301(h) of the Clean Water Act (the Act, CWA), 33 U.S.C. section 1311(h), and the Ocean Pollution Reduction Act of 1994, 33 U.S.C. section 1311(j)(5), from the secondary treatment requirements contained in section 301(b)(1)(B) of the Act, U.S.C. section 1311(b)(1)(B). The City submitted its renewal application to the U.S. Environmental Protection Agency, Southwest Region (the EPA Region 9 or EPA), on December 10, 2007.

The variance is being sought for the E.W. Blom Point Loma Metropolitan Wastewater Treatment Plant and Ocean Outfall, a publicly owned treatment works (POTW). The applicant is seeking a 301(h) variance to discharge wastewater receiving less-than-secondary treatment to the Pacific Ocean. Secondary treatment is defined in the regulations (40 CFR Part 133) in terms of effluent quality for total suspended solids (TSS), biochemical oxygen demand (BOD), and pH. The secondary treatment requirements for effluent TSS, BOD, and pH are listed below:

TSS: (1) The 30-day average shall not exceed 30 mg/l.  
(2) The 7-day average shall not exceed 45 mg/l.  
(3) The 30-day average percent removal shall not be less than 85 percent.

BOD: (1) The 30-day average shall not exceed 30 mg/l.  
(2) The 7-day average shall not exceed 45 mg/l.  
(3) The 30-day average percent removal shall not be less than 85 percent.

pH: At all times, shall be maintained within the limits of 6.0 to 9.0 units.

40 CFR 125.58(c) defines a large applicant as serving a population of 50,000 or more, or having a discharge flow of 5 million gallons per day (mgd) or more. The City meets the criteria for a large applicant. The City is requesting a modification for only TSS and BOD. (A modification for pH is not requested.) The applicant's proposed alternative effluent limits for TSS and BOD are shown in Volume III, Tables II.A-2 and II.A.5, of the application and require:

TSS: (1) The monthly average system-wide percent removal shall not be less than 80% percent (computed in accordance with Addendum No. 1 to Order No. R9-2002-0025, NPDES No. CA0107409).  
(2) The monthly average treatment plant effluent concentration shall not be more than 75 mg/l.  
(3) The annual treatment plant loading to the ocean shall not be more than 15,000 metric tons per year during years one through four of the permit and not more than 13,598 metric tons per year during year five of the permit. Compliance calculations for these loadings are not to include contributions from: Tijuana,

Mexico, via the emergency connection; federal facilities in excess of solids contributions received in calendar year 1995; Metro System flows treated in the City of Escondido; South Bay Water Reclamation Plant flows discharged to the South Bay Ocean Outfall; and emergency use of the Metro System by participating agencies over their capacity allotments.

BOD: The annual average system-wide percent removal shall not be less than 58 percent (computed in accordance with Addendum No. 1 to Order No. R9-2002-0025, NPDES No. CA0107409).

A concentration effluent limit for BOD (in mg/l) has not been requested by the applicant or required in NPDES permits for the 4.5 mile Point Loma Ocean Outfall. The alternative effluent limits requested by the applicant satisfy sections 301(h) and (j)(5) of the Act. The application is based on an "improved" discharge, as defined at 40 CFR 125.58(i). Facilities improvements proposed by the applicant during the period of the renewed NPDES permit (2009-2014) are effluent disinfection and follow-up studies. Volume III, Large Applicant Questionnaire section II.A.1, of the application.

This document presents the findings, conclusions, and recommendations of EPA Region 9, as to whether the applicant's proposed discharge complies with the criteria set forth in sections 301(h) and (j)(5) of the Act, as implemented by regulations at 40 CFR 125, Subpart G.

### DECISION CRITERIA

Under section 301(b)(1)(B) of the Act, U.S.C. section 1311(b)(1)(B), POTWs in existence on July 1, 1977, were required to meet effluent limits based on secondary treatment as defined by the Administrator of EPA (the Administrator). Secondary treatment is defined by the Administrator in terms of three parameters: TSS, BOD, and pH. Uniform national effluent limitations for these pollutants were promulgated and included in National Pollutant Discharge Elimination System (NPDES) permits for POTWs issued under section 402 of the Act. POTWs were required to comply with these limitations by July 1, 1977.

Congress subsequently amended the Act, adding section 301(h) which authorizes the Administrator, with State concurrence, to issue NPDES permits which modify the secondary treatment requirements of the Act with respect to certain discharges. P.L. 95-217, 91 Stat. 1566, as amended by P.L. 97-117, 95 Stat. 1623; and section 303 of the Water Quality Act of 1987. Section 301(h) provides that:

The Administrator, with the concurrence of the State, may issue a permit under section 402 [of the Act] which modifies the requirements of subsection (b)(1)(B) of this section [the secondary treatment requirements] with respect to the discharge of any pollutant from a publicly owned treatment works into marine waters, if the applicant demonstrates to the satisfaction of the Administrator that:

- (1) there is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 304(a)(6) of this Act;
- (2) such modified requirements will not interfere, alone or in combination with pollutants from other sources, with the attainment or maintenance of that water quality which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population (BIP) of shellfish, fish and wildlife, and allows recreational activities, in and on the water;
- (3) the applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable, and the scope of the monitoring is limited to include only those scientific investigations which are necessary to study the effects of the proposed discharge;
- (4) such modified requirements will not result in any additional requirements on any other point or nonpoint source;
- (5) all applicable pretreatment requirements for sources introducing waste into such treatment works will be enforced;
- (6) in the case of any treatment works serving a population of 50,000 or more, with respect to any toxic pollutant introduced into such works by an industrial discharger for which pollutant there is no applicable pretreatment requirement in effect, sources introducing waste into such works are in compliance with all applicable pretreatment requirements, the applicant has in effect a pretreatment program which, in combination with the treatment of discharges from such works, removes the same amount of such pollutant as would be removed if such works were to apply secondary treatment to discharges and if such works had no pretreatment program with respect to such pollutant;
- (7) to the extent practicable, the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from nonindustrial sources into such treatment works;
- (8) there will be no new or substantially increased discharges from the point source of the pollutant into which the modification applies above that volume of discharge specified in the permit;
- (9) the applicant at the time such modification becomes effective will be discharging effluent which has received at least primary or equivalent treatment and which meets the criteria established under section 304(a)(1)

of the Clean Water Act after initial mixing in the waters surrounding or adjacent to the point at which such effluent is discharged.

For the purposes of this subsection the phrase "the discharge of any pollutant into marine waters" refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines necessary to allow compliance with paragraph (2) of this subsection, and section 101(a)(2) of this Act. For the purposes of paragraph (9), "primary or equivalent treatment" means treatment by screening, sedimentation and skimming adequate to remove at least 30 percent of the biochemical oxygen demanding material and of the suspended solids in the treatment works influent, and disinfection, where appropriate. A municipality which applies secondary treatment shall be eligible to receive a permit pursuant to this subsection which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from any treatment works owned by such municipality into marine waters. No permit issued under this subsection shall authorize the discharge of sewage sludge into marine waters. In order for a permit to be issued under this subsection for the discharge of a pollutant into marine waters, such marine waters must exhibit characteristics assuring that water providing dilution does not contain significant amounts of previous discharged effluent from such treatment works. No permit issued under this subsection shall authorize the discharge of any pollutant into marine estuarine waters which at the time of application do not support a balanced, indigenous population of shellfish, fish and wildlife, or allow recreation in and on the waters or which exhibit ambient water quality below applicable water quality standards adopted for the protection of public water supplies, shellfish and wildlife, or recreational activities or such other standards necessary to assure support and protection of such uses. The prohibition contained in the preceding sentence shall apply without regard to the presence or absence of a causal relationship between such characteristics and the applicant's current or proposed discharge. Notwithstanding any of the other provisions of this subsection, no permit may be issued under this subsection for discharge of a pollutant into the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and westward of 40 degrees 10 minutes north latitude.

EPA regulations implementing section 301(h) provide that a 301(h)-modified NPDES permit may not be issued in violation of 40 CFR 125.59(b) which requires, among other things, compliance with the provisions of the Coastal Zone Management Act (16 U.S.C. 1451 et seq.), the Endangered Species Act (16 U.S.C. 1531 et seq.), the Marine Protection Research and Sanctuaries Act (16 U.S.C. 1431 et seq.), and any other applicable provisions of State or federal law or Executive Order.

In addition, under the Ocean Pollution Reduction Act of 1994, 33 U.S.C. section 1311(j)(5)(B) and (C):

An application under this paragraph shall include a commitment by the applicant to implement a waste water reclamation program that, at minimum, will –

(i) achieve a system capacity of 45,000,000 gallons of reclaimed waste water per day by January 1, 2010; and

(ii) result in a reduction in the quantity of suspended solids discharged by the applicant into the marine environment during the period of the modification.

The Administrator may not grant a modification pursuant to an application submitted under this paragraph unless the Administrator determines that such modification will result in removal of not less than 58 percent of the biological oxygen demand (on an annual average) and not less than 80 percent of total suspended solids (on a monthly average) in the discharge to which the application applies.

In the following discussion, data submitted by the applicant are analyzed in the context of the statutory and regulatory criteria.

### **SUMMARY OF FINDINGS**

Based upon review of the data, references, and empirical evidence furnished in the application and other relevant sources, EPA Region 9 makes the following findings with regard to the statutory and regulatory criteria:

1. The applicant's proposed discharge will comply with primary treatment requirements. [CWA section 301(h)(9); 40 CFR 125.60]
2. The applicant's proposed 301(h)-modified discharge will comply with the State of California's water quality standards for natural light and dissolved oxygen. (A modification for pH is not requested.) The applicant has sent a letter to the San Diego Regional Water Quality Control Board (Regional Water Board) requesting determination that the proposed discharge complies with applicable State law including water quality standards. In 1984, a Memorandum of Understanding was signed by EPA Region 9 and the State of California to jointly administer discharges that are granted modifications from secondary treatment standards. The joint issuance of a NPDES permit which incorporates both the federal 301(h) variance and State permit requirements will serve as the State's certification/concurrence that the modified discharge will comply with applicable State law and water quality standards. A draft 301(h)-modified permit has been

jointly developed by the Regional Water Board and EPA Region 9. [Section 301(h)(1); 40 CFR 125.61]

3. The applicant has demonstrated it can consistently achieve State water quality standards and federal 304(a)(1) water quality criteria beyond the zone of initial dilution. [CWA section 301(h)(9); 40 CFR 125.62(a)]
4. The applicant's proposed discharge, alone or in combination with pollutants from other sources, will not adversely impact public water supplies or interfere with the protection and propagation of a balanced, indigenous population (BIP) of fish, shellfish and wildlife, and will allow for recreational activities. [CWA section 301(h)(2); 40 CFR 125.62(b), (c), (d)]
5. The applicant has a well-established monitoring program and has demonstrated it has adequate resources to continue the program. The applicant has proposed no changes to its existing monitoring program. EPA Region 9 and the Regional Water Board will review the applicant's existing monitoring program and revise it, as appropriate. These revisions will be included in the 301(h)-modified permit, as conditions for monitoring the impact of the discharge. [CWA section 301(h)(3); 40 CFR 125.63]
6. The applicant has sent a letter to the Regional Water Board requesting determination that the proposed discharge will not result in any additional treatment requirements on any other point or nonpoint sources. The adoption by the Regional Water Board of a NPDES permit which incorporates both the federal 301(h) variance and State permit requirements will serve as the State's determination, pursuant to 40 CFR 125.59(f)(4), that the requirements under 40 CFR 125.64 are achieved. [CWA section 301(h)(4); 40 CFR 125.64]
7. The applicant's existing pretreatment program was approved by EPA Region 9 on June 29, 1982, and remains in effect. [CWA section 301(h)(5); 40 CFR 125.66 and 125.68]
8. The applicant has complied with urban area pretreatment requirements by demonstrating that it has an applicable pretreatment requirement in effect for each toxic pollutant introduced by an industrial discharger. The Urban Area Pretreatment Program was submitted to EPA Region 9 and the Regional Water Board in August 1996. This program was approved by the Regional Water Board on August 13, 1997 and EPA on December 1, 1998. [CWA section 301(h)(6); 40 CFR 125.65]
9. The applicant will continue to develop and implement both its existing nonindustrial source control program, in effect since 1985, and existing comprehensive public education program to minimize the amount of toxic pollutants that enter the treatment system from nonindustrial sources. [CWA section 301(h)(7); 40 CFR 125.66]

10. There will be no new or substantially increased discharges from the point source of the pollutants to which the 301(h) variance applies above those specified in the permit. [CWA section 301(h)(8); 40 CFR 125.67]
11. The applicant has sent letters to the U.S. Fish and Wildlife Service and NOAA National Marine Fisheries Service requesting determinations that the proposed discharge complies with applicable federal and State laws. The applicant has prepared a letter to the California Coastal Commission requesting a determination that the proposed discharge complies with applicable federal and State laws; this request will be transmitted to the California Coastal Commission after the 301(h) modified permit is adopted by the Regional Water Board. The issuance of a final 301(h)-modified permit is contingent upon receipt of determinations that the issuance of such permit does not conflict with applicable provisions of federal and State laws. [40 CFR 125.59]
12. In its operation of the Point Loma WTP, the applicant will continue to: achieve a monthly average system-wide percent removal for TSS of not less than 80 percent and an annual average system-wide percent removal for BOD of not less than 58 percent; and has implemented a water reclamation program that will result in a reduction in the quantity of suspended solids discharged into the marine environment during the period of the 301(h) modification. To ensure compliance with this requirement, EPA Region 9 is imposing permit conditions slightly different than those proposed by the applicant. In addition, the applicant has constructed a system capacity of 45 mgd of reclaimed water, thereby meeting this January 1, 2010 requirement. [CWA section 301(j)(5)]

### **CONCLUSION**

EPA Region 9 concludes that the applicant's proposed discharge will satisfy CWA sections 301(h) and (j)(5) and 40 CFR 125, Subpart G.

### **RECOMMENDATION**

It is recommended that the applicant be granted a CWA section 301(h) variance in accordance with the above findings, contingent upon satisfaction of the following conditions:

1. The determination by the Regional Water Board that the proposed discharge will comply with applicable provisions of State law, including water quality standards, in accordance with 40 CFR 125.61(b)(2). The adoption by the Regional Water Board of a NPDES permit which incorporates both the federal 301(h) variance and State permit requirements will serve as the State's certification/concurrence, pursuant to 40 CFR Parts 124.53 and 124.54, that the requirements under 40 CFR 125.61(b)(2) are achieved.



2. The determination by the Regional Water Board that the proposed discharge will not result in any additional treatment requirements on any other point or nonpoint sources, in accordance with 40 CFR 125.64. The adoption by the Regional Water Board of a NPDES permit which incorporates both the federal 301(h) variance and State permit requirements will serve as the State's determination, pursuant to 40 CFR 125.59(f)(4), that the requirements under 40 CFR 125.64 are achieved.
3. The draft permit contains the applicable terms and conditions required by 40 CFR 125.68, for establishment of a monitoring program.
4. The determination by the California Coastal Commission that issuance of a 301(h)-modified permit does not conflict with the Coastal Zone Management Act, as amended.
5. The determination by the U.S. Fish and Wildlife Service that issuance of a 301(h)-modified permit does not conflict with applicable provisions of the federal Endangered Species Act, as amended.
6. The determination by the NOAA National Marine Fisheries Service that issuance of a 301(h)-modified permit does not conflict with applicable provisions of the federal Endangered Species Act, as amended, and the Magnuson-Stevens Fishery Conservation and Management Act, as amended.
7. Issuance of the 301(h)-modified permit assures compliance with all applicable requirements of 40 CFR 122 and 40 CFR 125, Subpart G.

## **DESCRIPTION OF TREATMENT SYSTEM**

### **Treatment System**

The City's treatment system is described in Volume III, Large Applicant Questionnaire section II.A, and Volume IV, Appendix A, of the application. The San Diego Metropolitan Sewage System (Metro System) provides for the conveyance, treatment, reuse, and disposal of wastewater within a 450-square mile service area for the City of San Diego and regional participating agencies (Figure A-1). Metro System facilities include wastewater collection interceptors and pump stations, wastewater treatment and water recycling plants, sludge pipelines and solids handling facilities, and two land/ocean outfall systems. Metro System facilities are owned by the City of San Diego and are managed and operated by the City's Metropolitan Wastewater Department. The City administers and executes contracts with each participating agency, monitors flows to the Metro System, bills and collects payments from participating agencies, and disburses all monies spent in connection with the Metro System. Wastewater collection systems that discharge to the Metro System are owned and operated by respective participating agencies. Current wastewater flows from the City comprise approximately 70 percent of the total Metro System flows. Remaining Metro System wastewater flows are contributed

by the 15 Metro System participating agencies. Participating agency input to Metro System planning and operation is provided through the San Diego Metropolitan Wastewater Commission.

The following five groups of facilities comprise the Metro System: wastewater conveyance facilities; the Point Loma Wastewater Treatment Plant and Ocean Outfall; the North City Water Reclamation Plant; the Metro Biosolids Center and sludge conveyance facilities; and the South Bay Water Reclamation Plant and Ocean Outfall.

There have been improvements to Metro System facilities since the existing federal NPDES permit became effective in 2003. These include bringing the South Bay Water Reclamation Plant and recycled water users online within the service area of the South Bay Water Reclamation Plant and Ocean Outfall, and adding recycled water users within the North City Water Reclamation Plant service area. Figure A-2 presents a schematic of existing Metro System treatment and solids handling facilities which include the: Point Loma Wastewater Treatment Plant and Ocean Outfall, North City Water Reclamation Plant, South Bay Water Reclamation Plant and Ocean Outfall, and the Metro Biosolids Center. Waste solids from the South Bay Water Reclamation Plant (WRP) are conveyed to Point Loma WTP for treatment. Waste solids from Point Loma WTP and North City WRP are conveyed to the Metro Biosolids Center for dewatering and disposal.

Pump Station No. 2 is the largest and most important pump station within the Metro System. It is a reinforced concrete structure equipped with eight dry pit pumping units. With one pump serving as a standby unit, the pumping capacity is approximately 432 million gallons per day (mgd). All influent wastewater delivered to the Point Loma WTP is pumped through Pump Station No. 2 which also provides preliminary treatment in the form of coarse screening (4 units) and chemical addition (ferric chloride). Ferric chloride is added for odor control and to assist in coagulation/sedimentation at Point Loma WTP.

Point Loma WTP operates as a chemically-assisted primary treatment plant and is the terminal treatment facility discharging to the Point Loma Ocean Outfall (PLOO) and Pacific Ocean. The plant has rated capacities (with one sedimentation tank out of service) of 240 mgd annual average daily flow and 432 mgd peak wet weather flow. Point Loma WTP receives a blend of excess recycled water (during irrigation season), secondary treated effluent (during non-irrigation season), and waste plant streams from the 30 mgd North City WRP, return solids from the 15 mgd South Bay WRP, and untreated sewage from all other parts of the Metro System. The applicant states that of the approximately 170 to 180 mgd of wastewater treated, the estimated contribution from industrial users of the Metro System is 2.5 percent (Volume VII, Appendix K, of the application). The applicant states that inflow and infiltration is approximately 4 to 5 percent of the total flow into the treatment works (Volume II, EPA Form 3510-2A, of the application).

Point Loma WTP unit process and design criteria and loadings are provided in Table A-2 of Volume IV, Appendix A, of the application. Unit processes at the Point Loma WTP include: preliminary treatment with 15-millimeter mesh mechanical self-cleaning climber screens (5 units) to remove rags, paper, and other floatable material; chemical addition

(ferric chloride) to screened wastewater and influent flow measurement at the Parshall flumes; aerated grit removal (6 units) including grit tanks, separators and washers; chemical addition (anionic synthetic polymer and hydrogen peroxide) at sedimentation basin entrances to enhance settling of solids and assist in stabilization and odor control; sedimentation basins (12 units) where flocculated solids (sludge) settle to the bottom and sum floats to the surface; and sludge and scum removal facilities. From the sedimentation basins, treated wastewater enters the effluent channel.

The following outfall conveyance facilities allow the treated effluent to be discharge to the PLOO through: (1) a direct connection with the sedimentation basins; (2) a throttling valve which regulates water surface levels in the outfall diversion structure; or (3) a bypass valve which can divert the effluent to the outfall via a vortex structure. The 7,154-meter PLOO extends approximately 7.24 kilometers (4.5 miles or 3.9 nautical miles) offshore to the edge of the mainland shelf and discharges at a depth of approximately 95 meters (312 feet). The outfall terminates in a "Y"-shaped diffuser, the center of which is located at: north latitude 32 degrees, 39 minutes, 55 seconds, and longitude 117 degrees west, 19 minutes, 25 seconds. From the outfall terminus, each leg of the diffuser extends approximately 805 meters (0.5 miles). Effluent discharge commenced at this location in November 1993.

Point Loma WTP provides onsite digestion of waste solids from the sedimentation basins with six anaerobic digesters. Biogas produced by the digesters is used for fueling an onsite cogeneration facility. Digested solids are pumped to the Metro Biosolids Center for dewatering and disposal. Dewatered solids are beneficially used as an alternate daily cover at a landfill or as a soil amendment. Screenings, grit, and scum are trucked to a landfill for disposal.

The City's recycled water operations are regulated by water reclamation requirements established by the San Diego Regional Water Board: Order No. 97-03 and addenda thereto for the 30 mgd North City WRP and Order No. 2000-203 for the 15 mgd South Bay WRP. The South Bay WRP secondary effluent discharge to the South Bay Ocean Outfall (SBOO) is regulated by Regional Board Order No. R9-2006-0067, NPDES No. CA0109045. Waste solids from North City WRP are directed to the Metro Biosolids Center for digestion and dewatering. Waste solids from the South Bay WRP are discharged to the sewer system for transport to Point Loma WTP for treatment and removal.

### **Improved Discharge**

The City's 2007 application is based on an "improved" discharge, as defined at 40 CFR 125.58(i). Increases in Metro System flow (hydraulic) and load (suspended solids and biochemical oxygen demand) projections for long term facilities planning are projected at approximately 0.9 percent per year over the next 20 years (starting with the year 2008 projection). Section A.4 of the application (Volume IV, Appendix A) provides an overview of the new facilities and existing facility improvements that will be needed to meet discharge permit conditions for the Point Loma WTP and improve hydraulic

capacity within the Metro System. The two categories of facility improvements needed over the next 20 years are: (1) facilities to handle projected increased Metro System hydraulic and solids loadings which focus on South Bay facilities of the Metro System and (2) facilities at the Point Loma WTP to comply with revised California Ocean Plan (SWRCB, 2005) bacteriological water quality standards.

During the next 5-year permit cycle, the applicant has proposed the following improvements to the Metro System. Volume III, Large Applicant Questionnaire section II.A.2, of the application. These improvements are: (1) the ongoing program to bring additional recycled water users online to reduce dry-weather North City WRP flows discharged downstream to the Point Loma WTP and PLOO and South Bay WRP flows discharged to the SBOO; and (2) effluent disinfection provided by the installation and implementation (operation) of prototype effluent disinfection facilities at the Point Loma WTP. Prototype effluent disinfection facilities have been installed at the Point Loma WTP to allow the discharge to comply with recreational body-contact bacteriological standards throughout the water column (ocean surface to ocean bottom) in all State-regulated waters (within three nautical miles of the coast). The City will perform and complete follow-up studies to assess the need for refinements or modifications to prototype disinfection facilities or operations. The City is proposing to implement effluent disinfection at the Point Loma WTP to achieve a 2.1 logarithm (approximately 99%) reduction in pathogen indicator organisms using a 7 mg/l dose rate of a 12 percent sodium hypochlorite solution in the effluent channel. (For reference, 1 milligram per liter is 1 part per million.) The application projects that the sodium hypochlorite solution will be entirely consumed by effluent chlorine demand during outfall transport, allowing the Point Loma discharge to maintain a zero chlorine residual as the effluent enters the outfall diffuser. The City may propose future modification of the prototype disinfection facilities or operations based on additional studies and following approval by the Regional Water Board and EPA.

As documented in Volume III, Large Applicant Questionnaire section II.A.3, of the application, the City has constructed 45 mgd of recycled water treatment capacity; during the period of the existing permit, the applicant has consistently achieved 80% removal of TSS and 58% removal of BOD; and reduced TSS mass emissions during the period of the 301(h) modification (in Tables II.A-3 and II.A-4 and Figure II.A-1, Volume III of the application). Except for a slight reduction in year five of the renewed permit, the City is not requesting any change in the mass emission rate effluent limits for TSS, the concentration effluent limit for TSS, or the percent removal effluent limits for TSS and BOD, from those in the existing permit (in Tables II.A-2 and II.A-5, Volume III of the application). "System-wide" percent removal is computed as specified in Addendum No. 1 to Order No. R9-2002-0025, NPDES No. CA0107409. Tables II.A-3 and II.A-4 include the contribution from South Bay WRP which is neither identified in amended Order No. R9-2002-0025, nor included in the computation of "system-wide" percent removal.

## DESCRIPTION OF RECEIVING WATERS

Volume III, Large Applicant Questionnaire section II.B, of the application presents general information describing receiving waters for the Point Loma discharge. Volume VIII, Appendix N, of the application presents a detailed characterization of seasonal circulation patterns in the vicinity of the Point Loma discharge which was originally provided in the 1995 application. This characterization includes descriptions of regional and local bathymetry, regional currents, and currents and stratification in the Point Loma shelf area. (For reference, 1 meter is about 3.281 feet; 1 kilometer is 1,000 meters, or about 0.6214 statute miles or 0.5397 nautical miles; 1 statute mile is about 0.8684 nautical miles.)

### **Bathymetry**

The waters of the Southern California Bight (SCB) overlie the continental borderland of southern California. The outer edge of the borderland lies about 250 to 300 kilometers offshore and is defined by a sharp change of slope at 1000 meters. The continental borderland consists of a number of offshore islands, submerged banks, submarine canyons, and deep basins. The result is an unusually narrow mainland shelf, which averages 3 kilometers in width (ranging from 1 to 20 kilometers) and ends in waters of 200 meters depth. The narrowness of the mainland shelf in the SCB makes it particularly susceptible to human activities. Shiff et al., 2000.

The mainland shelf off Point Loma is about 6.5 kilometers wide. Within this region, a narrow rocky shelf runs parallel to the coast and extends from the shoreline to water depths of about 17 to 20 meters. The outer edge of this rocky shelf is marked by the outer edge of kelp beds where the sea floor drops sharply by about 3 to 18 meters and terminates in a relatively smooth, gently sloping plain that extends seaward. This plain continues to gently slope seaward to water depths of about 90 to 95 meters, with only minor variations in direction and width for at least 15 kilometers north and south of the PLOO. The outer edge of the mainland shelf breaks at water depths of about 110 meters, as the bottom slopes sharply downward into the Loma Sea Valley. The PLOO discharges at the outer edge of this mainland shelf. The Loma Sea Valley axis lies about 15 kilometers offshore of Point Loma at a water depth of about 370 meters.

### **Currents**

The local ocean current circulation in the vicinity of the PLOO occurs within the larger circulation of the California Current (the major southward-flowing surface current far offshore); the Southern California Counter Current (the inner northward-flowing leg of the counter-clockwise circulating gyre between the California Current and the coast); and the California Undercurrent (a northward flow beneath the Southern California Countercurrent at depths in excess of 100 meters).

Volume III and Volume VIII, Appendix N, of the application provide the following general characterization of the mainland shelf currents off the coast of Point Loma: the net subsurface flow (at a depth of 40 meters at the 60 meter contour) is upcoast at approximately 3 cm/sec; the net surface flow is downcoast at approximately 6 cm/sec; the net flow 1 to 2 meters above the ocean bottom has a strong offshore component that can exceed the longshore flow velocity; more than half the variations in longshore currents occur on time intervals longer than tidal periods; variations in cross-shore currents are dominated by tidal cycles; typical transport distances associated with tidal cycles are approximately 1 to 3 kilometers; waters along the nearshore shelf are dispersed with offshore waters on time scales of weeks; and long-term variability in currents can equal or exceed the seasonal variability. (For reference 1 cm/sec is about 0.6 m/min, or 1.1969 ft/min.) Table II.B-1 in Appendix III of the application summarizes 10<sup>th</sup> percentile, 50<sup>th</sup> percentile (median), and 90<sup>th</sup> percentile current speeds within the typical depth range of the PLOO wastefield (60 to 80 meters). Tenth percentile current speeds are typically 2 to 3 cm/sec and median current speeds are on the order of 7 to 10 cm/sec.

### **Stratification**

The water column above the Point Loma outfall diffuser is density stratified by gradients in temperature and salinity. Salinity gradients are small for water temperatures above 11 to 12 degrees C, but they make an important contribution to the density gradients of lower temperature waters. The strongest density gradients exist during the summer in the upper portion of the water column due to the formation of a seasonal thermocline at depths that range from a few meters to tens of meters (typically around 5 to 20 meters). Surface water temperatures may reach 18 to 23 degrees C. Water temperatures are generally lowest in the late winter, when surface temperatures can fall to about 12 to 14 degrees C. During this time, the seasonal thermocline may disappear and the density gradients may be minimal. At water column depths in excess of about 45 meters, the strongest density gradients occur during the winter (typically in January). Although these density gradients are weak in comparison with the gradients existing in the upper portion of the water column during the summer, they are sufficient to trap the wastefield from the Point Loma discharge at depths of 30 meters, or more, below the surface. Modeling and receiving water monitoring data indicate that the wastefield is typically confined to the water depth interval between 55 and 87 meters (Volume III, Large Applicant Questionnaire section III.A.3, of the application).

## **PHYSICAL CHARACTERISTICS OF THE DISCHARGE**

### **Outfall/Diffuser and Initial Dilution**

40 CFR 125.62(a) requires that the proposed outfall and diffuser must be located and designed to provide adequate initial dilution, dispersion, and transport of wastewater to meet all applicable water quality standards and criteria at and beyond the boundary of the zone of initial dilution (ZID). This evaluation is based on conditions occurring during periods of maximum stratification and during other periods when discharge characteristics, water quality, biological seasons, or oceanographic conditions indicate

more critical situations may exist. The physical characteristics of the PLOO (including diffuser) are summarized in Volume III, Large Applicant Questionnaire section II.A.8, of the application.

In the 2007 application, the Metro System service area projected annual average flow for 2009 is 208 mgd and the peak flow is 463 mgd. The Metro System end-of-permit projected annual average flow for 2014 is 219 mgd and the peak flow is 486 mgd. This represents an average annual growth rate of 0.9 percent. For comparison, population within the Metro System service area increased at an annual growth rate of 1.07 percent from 1990 to 2000. By year 2025, the applicant projects the portion of Metro System flows directed to Point Loma WTP during inclement weather periods, when no recycled water use occurs, to approach 240 mgd.

The 1995 application for the Point Loma WTP was based on an end-of-permit projected flow of 205 mgd. The 2001 application was based on an end-of-permit projected flow of 195 mgd. For the 2007 application, the Point Loma WTP end-of-permit (2014) projected annual average flow is 202 mgd. Actual and projected effluent flow rates for the Point Loma WTP during the period of the existing and proposed permit are shown in Table 1.

Because the Point Loma WTP end-of-permit projected flow of 202 mgd is less than the end-of-permit projected flow of 205 mgd evaluated by EPA in the 1995 and 2001 applications, EPA believes that the projected flow of 205 mgd continues to be a reasonable estimate for evaluating initial dilutions in the 2007 application.

Chapter III of the California Ocean Plan requires that "Waste effluents shall be discharged in a manner which provides sufficient initial dilution to minimize the concentrations of substances not removed in the treatment." This plan defines the "minimum initial dilution (Dm)" as the "... lowest average initial dilution within any single month of the year." and specifies that "Dilution estimates shall be based on observed waste flow characteristics, observed receiving water density structure, and the assumption that no currents, of sufficient strength to influence the initial dilution process, flow across the discharge structure."

The applicant has continued to provide two sets of initial dilution calculations employing flows of 205 mgd and 240 mgd. For the TDDs, EPA has only reviewed predictions based on an end-of-permit projected annual average flow of 205 mgd, because it is appropriate to the end of the five-year permit period.

Table 1. Actual and projected annual average and maximum daily/peak hour flows (mgd) for the Point Loma Ocean Outfall from 2001 through 2014.

Year	Observed Flows		Project Flows	
	Annual Average Flow <sup>1</sup>	Maximum Daily Flow	Projected Annual Average Flow <sup>2</sup>	Maximum Projected Peak Hour Flow <sup>3</sup>
2001	175	222	---	---
2002 <sup>4</sup>	169	189	---	---
2003	170	223	---	---
2004	174	295	---	---
2005	183	325	---	---
2006	170	224	---	---
2007	161	206	---	---
2008	162 <sup>5</sup>	233 <sup>5</sup>	191	458 <sup>6</sup>
2009	---	---	192	463 <sup>6</sup>
2010	---	---	193	467 <sup>6</sup>
2011	---	---	194	471 <sup>6</sup>
2012	---	---	197	476 <sup>6</sup>
2013	---	---	199	481 <sup>6</sup>
2014	---	---	202	486 <sup>6</sup>

<sup>1</sup> Data from monthly reports submitted to the Regional Water Board and EPA for 2001-2008. Maximum daily flow is the highest daily PLOO flow observed during the listed year.

<sup>2</sup> Average annual PLOO flow projections based on Metro System flow projections for long-term facilities planning. The flow projections for long-term facilities planning are conservative (overestimates that employ a factor of safety) to ensure that adequate future system capacity is maintained. Average annual PLOO flows will vary depending on hydrologic conditions, recycled water demands, and SBOO flows. These approximations are based on average annual recycled water use in the North City WRP service area of 7,210 AFY in 2008, 7,760 AFY by 2010, 8,260 AFY by 2012, linearly increasing beyond 2012 to 9,970 AFY (8.9 mgd) by 2027. Estimates are also based on combined South Bay WRP reuse and SBOO flows of 6,730 AFY in 2008, 6,930 AFY in 2010, 7,490 AFY in 2012, linearly increasing beyond 2012 to 8,850 AFY (7.9 mgd) by 2027. Estimates are also based on net annual Metro System flow reductions of 3.0 mgd from recycled water use from Padre Dam MWD, Santee WRP, and Otay Water District WRF.

<sup>3</sup> Maximum projected peak-hour wet-weather flow for a 10-year return period, per MWWD System wide Planning Design Event Analysis for Peak Flows and Volumes - PS1 and PS2, April 24, 1997. Values assume that no recycled water use occurs during a wet weather event. Maximum projected peak-hour flows represent short-term peak flows for purposes of assessing the ability of Metro System collection facilities to handle short-term instantaneous peak flows. Actual maximum peak hour flows in any year are likely to be significantly less than this projected once-in-10-year event.

<sup>4</sup> South Bay WRP is brought online.

<sup>5</sup> Preliminary values for January 1 through September 30, 2008.

<sup>6</sup> The City is reassessing peak hour wet-weather flow projections. As part of this assessment, the City is evaluating the need to add equalization storage at Pump Station Nos. 1 and 2 (or implementing alternative peak-flow management options) to increase the ability of Metro System conveyance facilities to handle potential maximum instantaneous peak flows.



The 1995 application for the Point Loma WTP was based on an end-of-permit projected annual average flow of 205 mgd. For this flow rate, the 50<sup>th</sup> percentile, flux-averaged initial dilution was predicted as 365:1 with currents and 300:1 without currents; the 5<sup>th</sup> percentile, flux-averaged initial dilution was predicted as 215:1 with currents and 194:1 without currents (based on time series data). For the water quality objectives in Table B of the California Ocean Plan, the lowest 30-day average initial dilution was predicted as 204:1 without currents (based on hydrocast data). Volume VIII, Appendix O, of the application. As reported in the 1995 and 2002 TDDs, EPA verified the City's estimate of initial dilution for the California Ocean Plan (204:1) by obtaining the modified RSB model and raw data used by the applicant; EPA's result for the minimum monthly average initial dilution was 195:1, for zero currents. This same initial dilution (195:1) was obtained by EPA using a selected set of model runs and EPA's version of RSB. Using EPA's UMERGE model, EPA's result for the minimum monthly average initial dilution was 179:1, for zero currents. Taken together, these independent modeling efforts by the applicant and EPA produced estimates for minimum monthly average initial dilution of 204:1, 195:1, and 179:1. The 1995 TDD concluded these values were similar given the inherent uncertainties associated with modeling and that each would provide a conservative estimate of initial dilution for evaluating compliance with Table B water quality objectives. EPA continues to use 204:1 for evaluating compliance with Table B water quality objectives in the California Ocean Plan and EPA's 304(a)(1) toxics water quality criteria for aquatic life which lack Table B objectives.

The 1995 TDD also evaluated the critical initial dilution with the applicant's modified RSB model and the EPA's RSB and UMERGE models using: peak 2-3 hour effluent flows (generally estimated to be 4/3 the average monthly effluent flow), all density profiles in the given month, and zero currents. This evaluation of critical initial dilution differs from the evaluation of the lowest average initial dilution within any single month specified for Table B water quality objectives in the California Ocean Plan. The combination yielding the lowest initial dilution was used as EPA's estimate for worst-case initial dilution. The worst-case initial dilution estimate was: 143:1 for the applicant's modified RSB model, 134:1 for EPA's RSB model, and 99:1 for the UMERGE model. This TDD continues to use the initial dilution of 99:1 to assess worst-case conditions for TSS and BOD.

Finally, the 1995 TDD calculated a long-term average initial dilution of 328:1 for evaluating compliance with EPA's toxics water quality criteria for human health (organisms only); this TDD continues to use the initial dilution of 328:1 to evaluate compliance with EPA's toxics water quality criteria for human health which lack Table B objectives in the California Ocean Plan.

### **Application of Initial Dilution to Water Quality Standards and Criteria**

Based on the information summarized in the previous section, EPA concludes that: (1) the outfall and diffuser system are well designed and achieve a high degree of dilution; (2) the minimum monthly average initial dilution value of 204:1 provides a conservative estimate of initial dilution for evaluating compliance with applicable State water quality

standards in Table B of the California Ocean Plan and EPA toxics water quality criteria for aquatic life; and (3) the long-term effective dilution value of 328:1 provides an appropriate estimate for evaluating compliance with EPA toxics water quality criteria for human health (organisms only) based on long-term exposure. As in the 1995 and 2002 TDDs, this evaluation uses the initial dilution value of 99:1 to assess worst-case conditions for suspended solids and dissolved oxygen concentrations following initial dilution. The application of these initial dilution values is summarized in Table 2.

Table 2. Initial dilution values for evaluating compliance with applicable State water quality standards and EPA's 304(a)(1) water quality criteria.

Initial Dilution Type	Initial Dilution Value	Source	Applicable Water Quality Standard 40 CFR 125.62(a)
Minimum monthly average initial dilution (1995 and 2002)	204:1	California Ocean Plan	Table B objectives
Minimum monthly average initial dilution	204:1	Amended 301(h) Technical Support Document	304(a)(1) criteria for acute and chronic aquatic life with no Table B objectives
Long-term effective dilution	328:1	Amended 301(h) Technical Support Document	304(a)(1) criteria for human health (organisms only) with no Table B objectives
Worst-case (critical) initial dilution	99:1	Amended 301(h) Technical Support Document	Suspended solids and dissolved oxygen

### Zone of Initial Dilution

No modifications to the PLOO have been implemented since its construction that would affect the dimensions of the zone of initial dilution. Consequently, the PLOO zone of initial dilution remains unchanged from the City's two prior applications. The zone of initial dilution extends 93.5 meters (307 feet) on either side of the PLOO diffuser legs. Volume VIII, Appendix O, of the application presents estimates of distances associated with completion of initial dilution at the PLOO's design average dry weather flow of 240 mgd; Table III.A-3 in Volume III of the application, presents a statistical breakdown of computed horizontal downstream distances from outfall ports to the completion of the initial dilution process.

As previously described, the outfall terminates in a "Y"-shaped diffuser, the center of which is located at: north latitude 32 degrees, 39 minutes, 55 seconds, and longitude 117 degrees west, 19 minutes, 25 seconds. For reference, near-ZID stations F30 (for water quality monitoring) and E14 (for sediment monitoring) are located on the 98 meter (320

foot) depth contour at: north latitude 32 degrees, 39 minutes, 94 seconds, and longitude 117 degrees west, 19 minutes, 49 seconds; or 300 meters (984 feet) west of the diffuser wye. See Figures A-3 and A-4 for maps of water quality stations and sediment monitoring stations, respectively.

### **Dilution Water Recirculation**

The effect of re-entrainment of the wastefield is to reduce the volumetric initial dilutions for the discharged effluent within the zone of initial dilution. Under CWA section 301(h)(9), in order for a 301(h) permit to be issued for the discharge of a pollutant into marine waters, such marine waters must exhibit characteristics assuring that water providing dilution does not contain significant amounts of previously discharged effluent from the treatment works.

This requirement was addressed by the City in the 1995 application. To estimate the potential for re-entrainment effects on the 30-day average concentration, the applicant made the assumption that receiving waters around the outfall contain all the wastewater discharged during a 30-day period (205 mgd for a total volume of  $1.3 \times 10^8$  cubic meters). This is a very conservative assumption, as physical oceanographic models indicate the residence time for wastewater within the 30 by 12 kilometer (19 by 7.5 miles) area around the outfall is about 4.5 days. For the effluent flow of 205 mgd, the largest reductions for computed volumetric initial dilutions were around 12 percent, occurring in July and September; the smallest reductions were around 4 percent, occurring in January and February.

Based on EPA's review of 2002 through 2006 effluent data for toxics concentrations to exceed California Ocean Plan Table B water quality objectives and EPA water quality criteria for aquatic life and human health, these predicted reductions for initial dilution due to re-entrainment are not expected to affect discharge compliance with applicable water quality objectives and criteria.

## **APPLICATION OF STATUTORY AND REGULATORY CRITERIA**

### **A. Compliance with Federal Primary Treatment, California Ocean Plan Table A, and CWA section 301(j)(5) Requirements**

Under CWA section 301(h)(9) and 40 CFR 125.60, the applicant's wastewater effluent must be receiving at least primary treatment at the time the 301(h) variance becomes effective. 40 CFR 125.58(r) specifies that primary treatment means treatment by screening, sedimentation, and skimming adequate to remove at least 30 percent of the biological oxygen demanding material and other suspended solids in the treatment works influent, and disinfection, where appropriate. In Table A of the California Ocean Plan, publicly owned treatment works must, as a 30-day average, remove 75 percent of suspended solids from their influent stream before discharging wastewaters to the ocean. Turbidity in the effluent must not exceed 75 NTU as a 30-day average, 100 NTU as a 7-

day average, and 225 NTU at any time. Settleable solids in the effluent must not exceed 1.0 MI/l as a 30-day average, 1.5 MI/l as a 7-day average, and 3.0 MI/l at any time. There are no Table A effluent requirements for biochemical oxygen demand. Finally, CWA section 301(j)(5) specifies that the applicant must implement a wastewater reclamation program that will result in a reduction in the quantity of suspended solids discharged by the applicant into the marine environment during the period of the 301(h) modification. In addition, such modification must result in removal of not less than 80 percent of total suspended solids (on a monthly average) and not less than 58 percent of biochemical oxygen demand (on an annual average).

### **1. Total Suspended Solids**

To comply with these requirements, the applicant has proposed the following effluent limits for total suspended solids:

- TSS: (1) The monthly average system-wide percent removal shall not be less than 80% percent (computed in accordance with Addendum No. 1 to Order No. R9-2002-0025, NPDES No. CA0107409).
- (2) The monthly average treatment plant effluent concentration shall not be more than 75 mg/l.
- (3) The annual treatment plant loading to the ocean shall not be more than 15,000 metric tons per year during years one through four of the permit and not more than 13,598 metric tons per year during year five of the permit. Compliance calculations for these loadings are not to include contributions from: Tijuana, Mexico, via the emergency connection; federal facilities in excess of solids contributions received in calendar year 1995; Metro System flows treated in the City of Escondido; South Bay Water Reclamation Plant flows discharged to the South Bay Ocean Outfall; and emergency use of the Metro System by participating agencies over their capacity allotments.

(For reference, 1 metric ton is 1,000 kilograms which is approximately 2,205 pounds.)

EPA reviewed influent and effluent data for Point Loma WTP provided in Volume IV, Appendix A, of the application. The data for total suspended solids, turbidity, and settleable solids are summarized, as follows.

Table 3. Monthly average and annual average influent concentrations for total suspended solids (mg/l) at Point Loma WTP.

Month	2002	2003	2004	2005	2006	2007
January	281	296	311	245	283	271
February	260	289	294	251	294	283
March	270	282	290	239	275	298
April	283	290	289	268	273	319
May	290	293	285	269	282	323
June	301	290	303	287	274	340
July	318	292	300	280	282	368
August	293	288	297	294	278	377
September	290	276	295	296	299	338
October	287	267	293	281	309	320
November	291	268	262	290	303	313
December	283	287	274	292	288	280
Annual Average	287	285	291	274	287	319
Maximum Month	318	296	311	296	309	377
Minimum Month	260	267	262	239	273	271

Table 4. Monthly average and annual average effluent concentrations for total suspended solids (mg/l) at Point Loma WTP.

Month	2002	2003	2004	2005	2006	2007
January	40.5	41.0	46.4	38.0	35.7	36
February	46.6	42.2	43.7	39.0	36.8	34
March	40.9	39.9	43.6	35.6	36.8	33
April	41.7	41.1	43.5	38.2	37.9	29
May	42.5	45.8	42.0	40.2	35.1	26
June	46.5	43.7	44.0	45.1	33.6	25
July	51.9	44.1	43.7	46.9	37.2	31
August	46.0	41.4	43.1	41.0	37.1	34
September	39.0	39.9	44.8	41.9	30.6	41
October	39.4	41.3	37.5	43.0	31.7	43
November	42.4	40.5	37.9	39.2	33.9	35
December	44.5	43.3	41.9	38.5	32.5	41
Annual Average	43.5	42.0	42.7	40.6	34.9	34
Maximum Month	51.9	43.3	46.4	46.9	37.9	43
Minimum Month	39.0	39.9	37.5	35.6	30.6	25

Table 5. Monthly average and annual average percent removals for total suspended solids (%) at Point Loma WTP.

Month	2002	2003	2004	2005	2006	2007
January	85.6	86.1	85.1	84.5	87.4	86.7
February	82.1	85.4	85.1	84.5	87.5	87.9
March	84.9	85.9	85.0	85.1	86.6	88.9
April	85.2	85.8	84.9	85.7	86.1	90.9
May	85.3	84.4	85.3	85.1	87.6	91.6
June	84.6	84.9	85.5	84.3	87.7	92.6
July	83.7	84.9	85.4	83.3	86.8	91.4
August	84.3	85.6	85.5	86.1	86.7	90.8
September	86.5	85.5	84.8	85.8	89.8	87.7
October	86.3	84.5	87.2	84.7	89.7	86.5
November	85.4	84.9	85.5	86.5	88.8	88.7
December	84.3	84.9	84.7	86.8	88.7	85.4
Annual Average	84.9	85.2	85.3	85.2	87.8	89.1
Maximum Month	86.5	86.1	87.2	86.8	89.8	92.6
Minimum Month	82.1	84.4	84.7	83.3	86.1	85.4

Table 6. Monthly average and annual average effluent values for turbidity (NTU) at Point Loma WTP.

Month	2002	2003	2004	2005	2006	2007
January	42	40	50	51	43	44
February	48	38	45	47	44	44
March	45	39	47	42	42	47
April	43	44	49	47	45	41
May	43	47	53	51	45	41
June	45	49	50	52	40	40
July	48	49	50	53	42	42
August	46	48	54	49	38	42
September	44	47	53	47	38	46
October	46	47	44	47	40	48
November	44	46	49	45	45	46
December	43	47	53	46	46	47
Annual Average	45	45	50	48	42	44
Maximum Month	48	49	54	53	46	48
Minimum Month	42	38	44	42	38	40

Table 7. Monthly average and annual average effluent values for settleable solids (MI/l) at Point Loma WTP.

Month	2002	2003	2004	2005	2006	2007
January	0.1	0.1	0.2	0.2	0.5	0.4
February	0.1	0.1	0.2	0.2	0.3	0.3
March	0.1	0.1	0.3	0.2	0.3	0.3
April	0.1	0.1	0.5	0.3	0.4	0.3
May	0.2	0.2	0.7	0.3	0.3	0.3
June	0.2	0.2	0.8	0.2	0.2	0.3
July	0.3	0.2	0.5	0.3	0.1	0.3
August	0.3	0.3	0.5	0.3	0.3	0.5
September	0.3	0.3	0.5	0.5	0.4	0.6
October	0.2	0.3	0.4	0.4	0.3	0.6
November	0.1	0.1	0.3	0.3	0.3	0.6
December	0.2	0.2	0.3	0.3	0.5	0.8
Annual Average	0.2	0.2	0.4	0.3	0.3	0.4
Maximum Month	0.3	0.3	0.8	0.5	0.5	0.8
Minimum Month	0.1	0.1	0.2	0.2	0.1	0.3

As shown in Table 5, the monthly average percent removals for total suspended solids meet both federal primary treatment requirements and California Ocean Plan Table A requirements for the Point Loma WTP. As shown in Table 4, the applicant's proposed monthly average limit of 75 mg/l for the Point Loma WTP effluent will also be met, although lower concentrations for suspended solids in the effluent are achievable. As shown in Table 6 and based on EPA's review of the effluent data, the turbidity limits for the Point Loma WTP effluent will be met. As shown in Table 7 and based on EPA's review of the effluent data and the City's response to permit violations which occurred in June and August 2004 (Table III.B-28 in Volume III of the application), the settleable solids limits for the Point Loma WTP effluent will be met.

In contrast to federal primary treatment and California Ocean Plan requirements, the percent removal requirement for total suspended solids specified under CWA section 301(j)(5) is applied on a "system-wide" basis and computed in accordance with the existing permit.

Table 8. Monthly average and annual average system-wide percent removals for total suspended solids (%).

Month	2002	2003	2004	2005	2006	2007
January	86	87	84	85	87	87
February	83	86	86	85	88	88
March	86	86	86	86	87	89
April	86	86	86	86	86	91
May	86	85	86	86	87	92
June	85	86	86	84	88	93
July	82	86	86	84	85	92
August	85	87	86	87	87	91
September	88	87	86	87	90	88
October	87	85	87	85	90	86
November	86	85	86	87	89	89
December	86	86	86	88	87	86
Annual Average	86	86	86	86	88	89
Maximum Month	88	87	87	88	90	93
Minimum Month	83	85	84	84	85	87

As shown in Table 8, the monthly average system-wide percent removals for total suspended solids meet the CWA section 301(j)(5) requirement of not less than 80 percent.

To comply with the CWA section 301(j)(5) requirement to implement a wastewater reclamation program that will result in a reduction in the quantity of suspended solids discharged by the applicant into the marine environment during the period of the 301(h) modification, the applicant has brought online the 30 mgd North City WRP and the 15 mgd South Bay WRP and, as part of its "improved" discharge, has committed to bring additional recycled water users online to reduce dry-weather flows to both the South Bay Ocean Outfall and Point Loma WTP and Ocean Outfall. Evidence for reductions in the quantity of suspended solids discharged by the applicant during the period of the 301(h) modification are provided in the application (Volume III, Figure II.A-1) which shows the actual reduction in Point Loma WTP effluent mass emissions for total suspended solids from 1995 through 2007. The application also provides projections for total suspended solids loadings from the Point Loma WTP during the period of the proposed 301(h) modification (Appendix III, Table II.A-21).



Table 9. Point Loma WTP actual and projected flows (mgd) and total suspended solids loadings (MT/year) during the terms of the existing and proposed permits.

Year	Actual Annual Average Discharge <sup>1</sup>	Actual TSS Mass Emissions <sup>1,2</sup>	Projected Annual Average Discharge	Projected TSS Mass Emissions
1995	188	11,060	---	---
1996	179	10,718	---	---
1997 <sup>3</sup>	189	10,255	---	---
1998 <sup>4</sup>	194	10,627	---	---
1999	175	9,130	---	---
2000 <sup>5</sup>	174	9,036	---	---
2001	175	10,256	---	---
2002 <sup>6</sup>	169	10,184	---	---
2003	170	9,862	---	---
2004	174	10,300	---	---
2005	183	10,229	---	---
2006	170	8,248	---	---
2007	161	7,588	---	---
2008	---	---	191	11,400
2009	---	---	193	11,500
2010	---	---	194	11,800
2011	---	---	195	11,700
2012	---	---	197	11,800
2013	---	---	199	11,900
2014	---	---	202	12,100

<sup>1</sup> Flow and mass emissions data from annual reports submitted to the Regional Water Board and EPA for 1995-2007.

<sup>2</sup> Annual mass emissions (converted to units of metric tons per year) are computed as the annual average of monthly mass emissions presented in annual reports submitted to the Regional Water Board and EPA for 1995-2007. The above-listed annual values (computed from monthly averages) may vary slightly from the annual values presented in the summary sheets within the annual reports, which are computed on the basis of average flow and effluent total suspended solids concentrations.

<sup>3</sup> North City WRP is brought online.

<sup>4</sup> Metro Biosolids Center is brought online.

<sup>5</sup> International Boundary and Water Commission International Wastewater Treatment Plant is brought online and Tijuana wastewater flows to Metro System are terminated.

<sup>6</sup> South Bay WRP is brought online.

The applicant's projections in Table 9 and proposed annual mass emissions limits for total suspended solids satisfy section 301(j)(5)(B)(ii) of the Act, except that footnotes 2 and 3 are retained from the existing permit:

<sup>2</sup> To be achieved on permit effective date through December 31, 2013. Applies only to TSS discharges from POTWs owned and operated by the Discharger and the Discharger's wastewater generated in the Metro System service area; does not apply to wastewater (and the resulting TSS)

generated in Mexico which, as a result of upset or shutdown, is treated at and discharged from Point Loma WTP.

<sup>3</sup> To be achieved on January 1, 2014. Applies only to TSS discharges from POTWs owned and operated by the Discharger and the Discharger's wastewater generated in the Metro System service area; does not apply to wastewater (and the resulting TSS) generated in Mexico which, as a result of upset or shutdown, is treated at and discharged from Point Loma WTP."

The applicant's proposed modifications to the requirements of footnotes 2 and 3 in the existing modified permit would allow significant new sources of total suspended solids to be included in the Point Loma discharge, but excluded from the determination of compliance with these mass emission limits. EPA cannot determine compliance with CWA section 301(j)(5)(B)(ii) if these provisions are changed to allow additional total suspended solids loadings to be excluded from the mass emission requirements for total suspended solids. Maintaining the existing requirements in footnotes 2 and 3 ensures that the mass emission loadings are measured on a comparable basis so that EPA can determine that the permit requires the necessary reduction in suspended solids loadings.

Based on Table 9, EPA believes that a total suspended solids mass emission rate of 12,100 metric tons per year would be achievable during all five years of the proposed 301(h) modification. During this period, EPA recognizes that reductions in mass emissions resulting from increased water reclamation are likely to be seasonal and anticipates the potential for corresponding higher mass emission rates during wet weather months. In the future, the City needs to pursue additional water reclamation and reuse projects, including those which demand a year-round supply of reclaimed water so as to maintain long-term compliance with the decision criteria.

## **2. Biochemical Oxygen Demand**

To comply with federal primary treatment and CWA section 301(j)(5) requirements for biochemical oxygen demand, the applicant has proposed the following effluent limit:

**BOD:** The annual average system-wide percent removal shall not be less than 58 percent (computed in accordance with Addendum No. 1 to Order No. R9-2002-0025, NPDES No. CA0107409).

EPA reviewed influent and effluent data for Point Loma WTP provided in Volume IV, Appendix A, of the application. The data for biochemical oxygen demand are summarized, as follows.

Table 10. Monthly average and annual average influent concentrations for biochemical oxygen demand (mg/l) at Point Loma WTP.

Month	2002	2003	2004	2005	2006	2007
January	257	280	272	218	261	282
February	257	260	249	219	279	286
March	261	258	244	221	264	302
April	266	267	258	254	270	307
May	263	280	264	264	278	315
June	268	274	277	269	263	329
July	280	283	251	256	268	323
August	264	277	267	259	261	322
September	260	280	257	265	273	311
October	270	269	234	263	280	295
November	276	261	234	277	277	305
December	266	262	256	256	282	270
Annual Average	266	271	255	252	271	304
Maximum Month	280	283	277	277	282	329
Minimum Month	257	261	234	218	261	270

Table 11. Monthly average and annual average effluent concentrations for biochemical oxygen demand (mg/l) at Point Loma WTP.

Month	2002	2003	2004	2005	2006	2007
January	95.0	99.6	103.7	88.4	97.6	100
February	107.5	97.7	98.5	88.7	101.1	97
March	94.4	99.9	100.5	96.3	102.5	99
April	98.6	111.7	100.3	107.7	105.5	95
May	89.4	116.9	101.3	112.7	105.4	96
June	84.0	117.2	107.7	114.6	108.1	95
July	90.4	115.5	102.4	112.0	111.9	96
August	88.8	107.2	115.4	105.1	102.3	98
September	83.9	100.9	106.1	107.1	98.4	94
October	94.8	101.0	85.9	112.5	92.0	93
November	104.7	94.9	94.4	112.3	97.2	94
December	93.6	96.5	102.8	101.5	100.6	89
Annual Average	93.8	104.9	101.6	104.9	101.9	96
Maximum Month	107.7	117.2	115.4	114.6	111.9	100
Minimum Month	83.9	94.9	85.9	88.4	92.0	89

Table 12. Monthly average and annual average percent removals for biochemical oxygen demand (%) at Point Loma WTP.

Month	2002	2003	2004	2005	2006	2007
January	63.0	64.4	61.9	59.4	62.6	64.5
February	58.2	62.4	60.4	59.5	63.8	66.1
March	63.8	61.3	58.8	56.4	61.2	67.2
April	62.9	58.2	61.1	57.6	60.9	68.8
May	66.0	58.3	61.6	57.3	62.1	69.5
June	68.7	57.2	61.1	57.4	58.9	70.9
July	67.7	59.2	56.2	56.3	58.2	70.0
August	66.4	61.3	56.8	59.4	60.8	69.5
September	67.7	64.0	58.7	59.6	64.0	69.7
October	64.9	62.5	63.3	57.2	67.1	68.3
November	62.1	63.6	59.7	59.5	64.9	69.2
December	64.8	63.2	59.8	60.4	64.3	66.9
Annual Average	64.7	61.3	60.0	58.3	62.4	68.4
Maximum Month	68.7	64.4	63.3	60.4	67.1	70.9
Minimum Month	58.2	57.2	56.2	56.3	58.2	64.5

As shown in Table 12, the monthly average percent removals for biochemical oxygen demand meet the federal primary treatment requirement.

In contrast to the federal primary treatment requirement, the percent removal requirement for biochemical oxygen demand specified under CWA section 301(j)(5) is applied on a “system-wide” basis and computed in accordance with the existing permit.

Table 13. Monthly average and annual average system-wide percent removals for biochemical oxygen demand (%).

Month	2002	2003	2004	2005	2006	2007
January	65	67	62	62	65	67
February	61	65	64	62	66	68
March	67	63	62	60	63	69
April	66	61	64	61	63	71
May	69	61	65	60	64	71
June	70	61	64	59	62	73
July	68	62	63	60	60	72
August	69	64	60	62	64	72
September	71	66	61	63	67	72
October	68	65	66	60	69	70
November	65	67	63	63	67	71
December	68	66	62	63	66	69
Annual Average	67	64	63	61	65	70
Maximum Month	71	67	66	63	69	73
Minimum Month	61	61	60	59	60	67

As shown in Table 13, the annual average system-wide percent removals for biochemical oxygen demand meet the CWA section 301(j)(5) requirement of not less than 58 percent.

### 3. 301(h)-modified Permit Effluent Limits for TSS and BOD

Based on EPA's review of the 301(h) and (j)(5) decision criteria, the effluent limits in Table 14 will be incorporated into the 301(h)-modified permit:

Table 14. Effluent limits based on CWA sections 301(h) and (j)(5).

Effluent Constituent	Units	Annual Average	Monthly Average
TSS	% removal <sup>1</sup>	---	≥80
	mg/l	---	75 <sup>4</sup>
	metric tons/year	15,000 <sup>2</sup>	---
13,598 <sup>3</sup>		---	
BOD5	% removal <sup>1</sup>	≥58	---

<sup>1</sup> To be calculated on a system-wide basis, as provided in Addendum No. 1 to Order No. R9-2002-0025.

<sup>2</sup> To be achieved on permit effective date through December 31, 2013. Applies only to TSS discharges from POTWs owned and operated by the Discharger and the Discharger's wastewater generated in the Metro System service area; does not apply to wastewater (and the resulting TSS) generated in Mexico which, as a result of upset or shutdown, is treated at and discharged from Point Loma WTP.

<sup>3</sup> To be achieved on January 1, 2014. Applies only to TSS discharges from POTWs owned and operated by the Discharger and the Discharger's wastewater generated in the Metro System service area; does not apply to wastewater (and the resulting TSS) generated in Mexico which, as a result of upset or shutdown, is treated at and discharged from Point Loma WTP.

<sup>4</sup> Based on average monthly performance data (1990 through 1994) for the Point Loma WTP provided by the Discharger for the 1995 301(h) application.

### B. Attainment of Water Quality Standards for TSS and BOD

Under 40 CFR 125.61(a) which implements CWA section 301(h)(1), there must be a water quality standard applicable to the pollutants for which the modification is requested; under 125.61(b)(1), the applicant must demonstrate that the proposed modified discharge will comply with these standards. The applicant has requested modified requirements for total suspended solids, which can affect natural light (light transmissivity) and biochemical oxygen demand which can affect dissolved oxygen concentration.

#### 1. Natural Light

In relation to the effects of total suspended solids, the California Ocean Plan specifies that: "Natural light shall not be significantly reduced at any point outside the initial dilution zone as the result of the discharge of waste." Regional Water Boards may determine reduction of natural light by measurement of light transmissivity or total irradiance, or both. Compliance with this water quality objective is determined from samples collected at stations representative of the area within the wastefield where initial dilution is completed. The typical depth range of the PLOO wastefield is 60 to 80 meters below the surface which is well below the euphotic zone.

In the 1995 TDD, EPA predicted a maximum increase in total suspended solids of 0.5 mg/l, in the immediate area of the Point Loma discharge, based on an effluent concentration of 53 mg/l and the worst-case initial dilution of 99:1. Applying this initial dilution value to the total suspended solids effluent values in Table 4 and the applicant's estimate for ambient total suspended solids (depth-averaged over a complete tidal cycle) of 7 mg/l, the maximum increase in total suspended solids at the boundary of the zone of initial dilution should be on the order of 0.45 to 0.24 mg/l, or about 6 to 3 percent. While these estimates are larger than the applicant's estimates, the increases predicted by the mass balance model are not considered substantial given the range of natural variability in total suspended solids (2.2 to 11.2 mg/l) historically observed in the area of the discharge.

EPA also reviewed available receiving water data to assess whether or not natural light is significantly reduced by the drifting wastefield.

Under its existing NPDES permit, the City conducts the required quarterly monitoring for bacteria indicators (enterococcus, fecal coliforms, and total coliforms), at depths of 1, 25, 60, 80 and 98 meters below the surface, at a grid of 33 offshore stations located along the 98, 80 and 60 meter contours (Figure A-3). This data is used by the applicant and EPA to help identify the location of the drifting wastefield. EPA evaluated the applicant's monitoring results from October 2003 through July 2007. Bacteria indicator data indicative of the PLOO wastefield are variably found along the 98, 80, and 60 meter contours, generally at depths from 60 to 98 meters.

Under its existing NPDES permit, the City conducts the required quarterly monitoring for light transmittance, throughout the water column, at a grid of 33 offshore stations located along the 98, 80 and 60 meter contours. EPA evaluated the applicant's monitoring results from October 2003 through October 2007. As shown in Table B-1 and Figure A-5, long-term averages and standard deviations for percent transmissivity at different water depths at the near-ZID boundary and nearfield stations (F30, F29, F31) are similar to those observed for the same water depth, at farfield stations located on the 98 meter contour. Long-term averages for percent transmissivity are lower and more variable at water depths closer to the surface and at the bottom, in comparison to water depths below the euphotic zone which are frequented by the drifting wastefield. Generally, percent transmissivity is lower at stations closer to the coast, due to shoreline influences and sediment resuspension at the bottom. Based on this evaluation, EPA concludes that the Point Loma discharge does not result in a significant reduction in natural light in areas within the wastefield where initial dilution is completed.

## **2. Dissolved Oxygen**

In relation to the effects of biochemical oxygen demand, the California Ocean Plan specifies that: "The dissolved oxygen concentration shall not at any time be depressed more than 10 percent from that which occurs naturally, as the result of the discharge of oxygen demanding waste materials." Compliance with this water quality objective is determined from samples collected at stations representative of the area within the

wastefield where initial dilution is completed. The typical depth range of the PLOO wastefield is 60 to 80 meters below the surface which is well below the euphotic zone.

The 1995 application used a modeling approach to predict the effect of the Point Loma WTP discharge on ambient dissolved oxygen concentrations. In the 1995 TDD, EPA evaluated these efforts and conducted similar modeling, using a worst-case (critical) initial dilution of 99:1, to verify the City's predictions. EPA's modeling results were slightly higher, but comparable to the applicant's results. The results of these modeling efforts are still valid for this review, as the assumptions for discharge flow (240 mgd), total suspended solids (48 mg/l), and biochemical oxygen demand (121 mg/l) remain conservative model inputs, with respect to the 2007 application. A summary of the applicant's analyses are found in Volume III, Large Applicant Questionnaire section III.B, of the application. The results of the applicant's and EPA's modeling efforts are summarized, below. EPA's analyses are found in the administrative record for the 1995 TDD.

Both the applicant and EPA use modeling efforts to evaluate the potential for: (1) dissolved oxygen depression following initial dilution during the period of maximum stratification (or other critical period); (2) farfield dissolved oxygen depression associated with biochemical oxygen demand exertion in the wastefield; (3) dissolved oxygen depression associated with steady-state sediment oxygen demand; and (4) dissolved oxygen depression associated with the resuspension of sediments (Table 15). For these calculations, the applicant uses an initial dilution of 202:1 while EPA uses the worst-case initial dilution of 99:1.

Table 15. Predicted worst-case dissolved oxygen (DO) depressions (mg/l) and percent reductions (%) performed by San Diego (1995) and EPA (1995).

Sources of Potential Oxygen Demand	San Diego	EPA
DO depression upon initial dilution (and % reduction)	0.05 (<1%)	0.08 (1.7%)
DO depression due to BOD exertion in the farfield (and % reduction)	0.14 (2.4%)	0.23 (5.9%)
DO depression due to steady-state sediment oxygen demand (and % reduction)	0.045 (1.7%)	0.16 (4.7%)
DO depression due to abrupt sediment resuspension (and % reduction)	0.077 (2.4%)	0.12 (3.5%)

EPA has compared these model predictions to the most recent water quality data to assess the potential for the discharge to result in dissolved oxygen depressions more than 10 percent from that which occurs naturally. Under its existing NPDES permit, the City



conducts the required quarterly monitoring for dissolved oxygen, throughout the water column, at a grid of 33 offshore stations located along the 98, 80 and 60 meter contours. EPA evaluated the applicant's monitoring results from October 2003 through October 2007. At water depths frequented by the drifting wastefield, the long-term average concentrations for dissolved oxygen are around 4 to 5 mg/l. As shown in Table B-2 and Figure A-6, the long-term average concentration for dissolved oxygen at the near-ZID boundary station (F30) is similar to long-term average concentrations measured at nearfield and farfield stations. Dissolved oxygen depression associated with sediment demand should be compared to bottom waters at the outfall depth which, on average, show dissolved oxygen concentrations around 3 mg/l. This evaluation supports the conclusion that the Point Loma discharge does not result in more than a 10 percent reduction in dissolved oxygen concentrations, in areas within the wastefield where initial dilution is completed, from that which occurs naturally.

Based on the model predictions and receiving water monitoring results, EPA concludes it is unlikely that the dissolved oxygen concentration will be depressed more than 10 percent from that which occurs naturally outside the initial dilution zone, as a result of the wastewater discharge.

### **C. Attainment of Other Water Quality Standards and Impact of the Discharge on Shellfish, Fish and Wildlife; Public Water Supplies; and Recreation**

CWA section 301(h)(2), implemented under 40 CFR 125.62, requires the modified discharge to not interfere, either alone or in combination with other sources, with the attainment or maintenance of that water quality which assures protection of public water supplies; protection and propagation of a balanced indigenous population (BIP) of shellfish, fish, and wildlife; and allows recreational activities in and on the water. In addition, CWA section 301(h)(9), implemented under 40 CFR 125.62(a), requires that the modified discharge meet all applicable EPA-approved State water quality standards and, where no such standards exist, EPA's 304(a)(1) aquatic life criteria for acute and chronic toxicity and human health criteria for carcinogens and noncarcinogens, after initial mixing in the waters surrounding or adjacent to the outfall.

#### **1. Attainment of Other Water Quality Standards and Criteria**

40 CFR 125.62(a) requires that the applicant's outfall and diffuser be located and designed to provide adequate initial dilution, dispersion, and transport of wastewater such that the discharge does not exceed, at and beyond the zone of initial dilution, all applicable State water quality standards. Where there are no such standards, individual 304(a)(1) aquatic life criteria and human health criteria must not be exceeded by the discharge. For this review, the applicable water quality standards and criteria are analyzed in four categories: pH, toxics, whole effluent toxicity, and sediment quality.

**a. pH**

The applicant is not requesting a 301(h) modification for pH, but the modified discharge must still meet the water quality standard for pH. The California Ocean Plan specifies that in ocean water: "The pH shall not be changed at any time more than 0.2 units from that which occurs naturally." Compliance with this water quality objective is determined from samples collected at stations representative of the area within the wastefield where initial dilution is completed. The typical depth range of the PLOO wastefield is 60 to 80 meters below the surface. Also, Table A in the California Ocean Plan has the effluent limit for pH: "Within the limit of 6.0 to 9.0 at all times." This requirement for pH is the same as that found in the secondary treatment regulation (40 CFR Part 133).

The City's 1995 application computed projected effects for a 240 mgd discharge on receiving water pH and a maximum change of 0.02 pH units was estimated.

Under its existing NPDES permit, the City conducts the required quarterly monitoring for pH, throughout the water column, at a grid of 33 offshore stations located along the 98, 80 and 60 meter contours. EPA evaluated the applicant's monitoring results from October 2003 through October 2007. At water depths frequented by the drifting wastefield, the long-term average for pH ranges from 7.9 to 7.8 units. As shown in Table B-3 and Figure A-7, the long-term average for pH measured at the near-ZID boundary station (F30) is similar to long-term averages measured at nearfield and farfield stations.

Under its existing NPDES permit, the City conducts the required continuous monitoring for pH in the Point Loma WTP effluent. Table III.B-13 in Volume III of the application summarizes daily pH data for the effluent during 2002 through 2006. During this period, the maximum daily value for pH was 7.87 units and the minimum daily value was 6.65 units. These levels achieve the technology based effluent limits required in both Table A of the California Ocean Plan and federal secondary treatment standards.

Based on the model predictions and receiving water monitoring results, it is unlikely that pH will be depressed more than 0.2 units from that which occurs naturally outside the initial dilution zone, as a result of the wastewater discharge. Also, EPA expects that technology based effluent limits for pH will be met by the applicant.

**b. *Toxics and Whole Effluent Toxicity***

Under its existing NPDES permit, the City conducts the required effluent monitoring for the priority toxic and non-conventional pollutants listed in Table B of the California Ocean Plan and "remaining priority pollutants". Table B parameters for the protection of marine aquatic life are monitored weekly, except for chronic toxicity which is monitored monthly and acute toxicity which is monitored semi-annually. Table B parameters for the protection of human health (noncarcinogens) are monitored monthly. Table B parameters for the protection of human health (carcinogens) are monitored monthly, except for aldrin

and dieldrin, chlordane, DDT, PCBs, and toxaphene which are monitored weekly. "Remaining priority pollutants" are monitored monthly.

## Toxics

The City submitted Point Loma WTP effluent data for metals, ammonia, and toxic organic chemicals from 2002 through 2006 in electronic format, as part of the application. Table B-4 provides a summary list of the monitored chemical parameters in this submission.

EPA screened this data using both the maximum method detection limit (MDL) and maximum effluent value reported by the applicant. Parameters never detected in the effluent were set aside. The remaining parameters were screened to determine which exceeded an applicable California Ocean Plan Table B water quality objective, or if no such objective exists, any applicable EPA 304(a)(1) water quality criterion. For Table B objectives, this screening was conducted using the 1995 and 2002 minimum monthly average initial dilution value of 204:1.

Table B-5 provides a summary list of parameters detected at least once in the effluent from 2002 through 2006. Only chlordane and heptachlor exceeded applicable State water quality standards, or EPA's 304(a)(1) water quality criteria; both the applicant (Table III.B-28 in Volume III of the application) and EPA have identified that these two parameters exceeded Table B objectives only once, on July 24, 2004. Chlordane is a pesticide that was used on crops like corn and citrus, on home lawns and gardens, and to control termites. EPA banned all uses of chlordane in 1988. Heptachlor was extensively used in the past for killing insects in homes, buildings, and on food crops. These uses stopped in 1988. Currently, heptachlor can only be used for fire ant control in underground power transformers. The applicant monitors effluent levels of chlordane on a weekly basis and heptachlor on a monthly basis and attributes the exceedance results to an illicit discharge to the sewer system. All other monitoring results for chlordane and heptachlor were reported as not detected in the effluent.

EPA reviewed the sensitivity of analytical methods used by the applicant to evaluate effluent compliance with California Ocean Plan Table B water quality objectives after initial dilution. To do this, EPA reviewed the maximum method detection limits (MDLs) and maximum effluent concentrations for all Table B parameters monitored during 2002 through 2006. For Table B parameters which are always reported as "not detected", EPA calculated estimated effluent wasteload allocations by multiplying Table B objectives by the respective initial dilution value. These estimated wasteload allocations are then compared to the applicant's maximum MDLs during 2002 through 2006. Based on these comparisons, EPA has determined that the MDLs for aldrin, benzidine, chlordane, DDT, 3,3-dichlorobenzidine, dieldrin, heptachlor, heptachlor epoxide, PAHs, PCBs, TCDD equivalents, and toxaphene are generally not low enough to evaluate effluent quality in relation to the applicable water quality objective after initial dilution (i.e., the MDL is greater than the estimated effluent wasteload allocation). EPA determined that the applicant is using MDLs as sensitive as those prescribed under 40 CFR 136, except for

aldrin, PCBs, and TCDD equivalents, where the applicant's MDLs need to be lowered in order to achieve 40 CFR 136 levels.

### **Whole Effluent Toxicity**

The City provided Point Loma WTP effluent data for chronic toxicity and acute toxicity from 2002 through 2007 in electronic format, at EPA's request.

EPA reviewed these chronic toxicity data, along with the summary results for chronic toxicity provided in Volume III, Large Applicant Questionnaire section III.B.7, of the application to determine if any test results exceeded the Table B chronic toxicity objective of 1.0 TUc (= 100/NOEC). In accordance with the existing permit, the applicant conducted sensitivity screening using *Atherinops affinis* (topsmelt), *Haliotis rufescens* (red abalone), and *Macrocystis pyrifera* (giant kelp) and concluded that the red abalone and giant kelp were the most sensitive organisms for chronic toxicity testing. EPA's review of the 52 red abalone larval development test results from June 2003 through 2007 shows no exceedance of the chronic toxicity objective using the minimum monthly initial dilution value of 204:1. EPA's review of the 60 giant kelp germ tube length test results from June 2003 through 2007 shows one exceedance (December 19, 2005) of the chronic toxicity objective which is a very low failure rate. In response to the exceedance, the City conducted accelerated toxicity testing as required by the existing permit; these follow-up toxicity tests demonstrated compliance with the objective. The applicant reports that concentrations of toxic inorganic and organic constituents in the Point Loma WTP effluent at the time of the noncompliant toxicity test were at normal values and the cause of the toxicity is unknown. The existing permit limit is 205 TUc and the critical effluent concentration is 0.49 percent effluent.

EPA reviewed these acute toxicity data, along with the summary results for acute toxicity provided in Volume III, Large Applicant Questionnaire section III.B.7, of the application to determine if any test results exceeded the Table B acute toxicity objective of 0.3 TUa (= 100/LC50). In accordance with the existing permit, the applicant conducted sensitivity screening both using *Atherinops affinis* (topsmelt) and *Mysidopsis bahia* (shrimp) and concluded that the shrimp was the more sensitive organism for acute toxicity testing. EPA's review of the 11 test results from June 2003 through September 2007 shows no exceedance of the acute toxicity objective, using the minimum monthly initial dilution value of 20.4:1 for acute toxicity. The existing permit limit is 6.5 TUa and the critical effluent concentration is 15.5 percent effluent.

### **Toxics Mass Emission Benchmarks and Antidegradation**

In the 1995 and 2003 permits, EPA and the Regional Water Board established annual mass based performance goals for California Ocean Plan Table B parameters based on Point Loma WTP effluent data from 1990 through April 1995. For most Table B parameters, the numerical benchmarks are set below the levels prescribed for water quality based effluent limits. The benchmarks are designed to provide an early measure of changes in effluent quality which may substantially increase the mass of toxic

pollutants discharged to the marine environment. Consistent with State and federal antidegradation policies, these benchmarks are intended to serve as triggers for antidegradation analyses during renewal of the permit.

Under 40 CFR 131.12, State antidegradation policies and implementation practices must ensure that: (1) existing uses and the level of water quality necessary to protect such uses are maintained and protected (Tier I requirement); and (2) where water quality is better than necessary to support the propagation of fish, shellfish, and wildlife and recreation in and on the water, the level of water quality shall be maintained and protected unless the permitting authority finds that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located; existing uses are fully protected; and the highest statutory and regulatory requirements are achieved for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control (Tier II requirement).

An analysis of compliance with the mass emission benchmarks in the existing permit is presented in Volume II, Part 3, of the application. During 2002 through 2006, the City achieved compliance with all benchmarks except for phenol (2.57 MT/yr) which was exceeded by about eight percent. Phenol is regularly detected in the Point Loma WTP effluent. According to the applicant, phenol is a common chemical used in industrial and nonindustrial applications as solvents, disinfectants and cleaning compounds; it is also a constituent in paints, inks, and photographic chemicals. Phenol has a variety of household uses including medical and household disinfectants, pharmaceuticals, solvents and cleaners, paints, inks, and photo supplies. It is identified by the applicant as a pollutant of concern, but does not have an existing local pretreatment limit. Industrial discharges of phenols to the sewer system are regulated by the City. Federal categorical industrial dischargers, hospitals, and laboratories are regulated by the applicant's "toxic organic management plans". Electroplating and metal finishing industries are regulated by federal total toxic organics limits. The applicant states that these existing practices are effective in limiting industrial discharges of phenol from electroplating and metal finishing industries, hospitals, laboratories, and other significant industrial users.

Point Loma WTP influent and effluent data presented in Table 2-5 of Volume II, Part 3, of the application demonstrate that the upward trend in phenol mass emissions is consistent and not an artifact of a few high concentrations in a limited number of samples. Historical annual average mass emissions for phenol are: 2.2 MT/yr (1990-1995), 3.3 MT/yr (1996-2001), and 2.7 MT/yr (2002-2006). During these periods, the average percent removal for phenol has improved: 17 percent (1990-1995), 20 percent (1996-2001), and 27 percent (2002-2006). During these periods, the average concentrations for phenol in the effluent are: 8.2 ug/l (1990-1995), 13.4 ug/l (1996-2001), and 11.5 ug/l (2002-2006). The applicant has not requested changes to the mass emission benchmark or the water quality based effluent limits for phenolic compounds in the existing permit.

Based on this information, EPA concludes that a full antidegradation analysis justifying that the continued increase in effluent loading of phenolic compounds (non-chlorinated)

to a Tier II waterbody may be necessary. Because the effluent load for phenolic compounds appears likely to continue to increase during the permit term, the draft permit proposes that the applicant conduct a thorough analysis of the projected effluent load above the mass emission benchmark level, the resulting impact to receiving water quality of the total effluent load, and opportunities for effluent load reduction through additional treatment or controls, including local limits, and pollution prevention. If this analysis shows that the total effluent load for phenolic compounds produces either (1) a receiving water concentration at the boundary of the zone of initial dilution that is less than ten percent above the ambient (farfield) concentration, or (2) the receiving water concentration at the boundary of the zone of initial dilution is less than 50 percent of the California Ocean Plan water quality objectives for phenolic compounds (non-chlorinated), then the resulting impact to water quality is not considered "significant" and further analysis is not required at this time. However, if the change in receiving water quality is found to be "significant", then the applicant must conduct a socioeconomic analysis considering the full benefits and costs of the increased effluent loading of phenolic compounds, including environmental impacts. Specifically, this analysis must assess whether allowing these increased loadings is necessary to accommodate important social and economic development in the San Diego service area.

The existing annual mass emission benchmarks will be incorporated into the reissued permit as a basis for evaluating future changes in effluent quality and mass loading.

EPA concludes that the modified discharge will attain applicable water quality standards and criteria for toxics and whole effluent toxicity, based on the very low rates of effluent excursions above water quality objectives for toxics and chronic toxicity. Consistent with State policy, appropriate requirements for toxics and whole effluent toxicity will be included in the permit. Water quality based effluent limits will be established for all California Ocean Plan Table B parameters where effluent data show the reasonable potential to exceed water quality objectives for toxics and whole effluent toxicity. The effluent will be monitored for all Table B parameters and other priority pollutants following the regular schedule set in the existing permit. The results of the effluent monitoring program will be evaluated against the annual mass emission benchmarks to protect the Point Loma WTP headworks and achieve permit compliance with water quality standards.

In accordance with 40 CFR 125.62, EPA concludes that the modified discharge will allow for the attainment or maintenance of water quality which assures protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife.

### *c. Sediment Quality*

Accumulation of solids in and beyond the vicinity of the discharge can have adverse effects on water usage and biological communities. 40 CFR 125.62(a) requires that following initial dilution, the diluted wastewater and particles must be dispersed and transported such that water use areas and areas of biological sensitivity are not adversely affected.

In relation to solids, Chapter II of the California Ocean Plan contains the following water quality objective for physical characteristics of marine sediments: "The rate of deposition of inert solids and the characteristics of inert solids in ocean sediments shall not be changed such that benthic communities are degraded." In addition, Chapter II of the California Ocean Plan contains the following water quality objectives for chemical characteristics of marine sediments: "The concentration of organic materials in marine sediments shall not be increased to levels that would degrade marine life."; "Nutrient materials shall not cause objectionable aquatic growths or degrade indigenous biota."; and "The dissolved sulfide concentration of waters in and near sediments shall not be significantly increased above that present under natural conditions."

Figure A-8 summarizes percent total solids in sediment at each 98 meter station, during July, from 1991 through 2006.

Applicants must predict seabed accumulation due to the discharge of suspended solids into the receiving water. The approach for large dischargers needs to consider the process of sediment deposition, decay of organic materials, and resuspension and anticipated mass emissions for the permit term.

In 1995, the applicant used a sediment deposition model (SEDPXY) to predict the rates of suspended solids and organic matter deposition and accumulation around the outfall. The model was run under two scenarios, assuming effluent flow rates of 205 (end-of-permit for 1995 application) and 240 mgd (design capacity) and solids mass emission rates of 14,073 and 16,476 MT/yr, respectively. In the 1995 TDD, EPA estimated sediment deposition using a modified version of the *Amended Section 301(h) Technical Support Document* (EPA 842-B-94-007, September 1994; ATSD) sediment deposition model which was run assuming an effluent flow rate of 205 mgd and a solids mass emission rate of 13,600 MT/yr. In the 2002 TDD, EPA adjusted its modeling for the solids mass emission rate of 15,000 MT/yr.

The predictions generated using the ATSD model are likely to be different from the applicant's SEDPXY model due to differences in the use of current meter data, bathymetry, trapping depth distributions, the size and resolution of the modeling grid, and the use of different assumptions regarding the rate which effluent particles settle (e.g., the settling velocities used by EPA were about two times higher than those used by the applicant). As a result of these differences, the ATSD model predicts a greater number of particles settling over a smaller area and is the more conservative result. These data are summarized in Table 16.

Table 16. Results of sediment deposition modeling performed by San Diego (1995) and EPA (1995 and 2002).

Parameter	San Diego	EPA
Effluent flow rate (mgd)	205 – 240	205 – 240
Mass of particles (MT/yr)	14,073 – 16,476	13,600 – 15,000
Mass of particles (lbs/day)	85,000 – 99,512	n/a
Area modeled (km <sup>2</sup> )	360	200
Percent of particles settling in area modeled (%)	8.3 – 8.1	12
Area modeled around the diffuser (km <sup>2</sup> )	0.01	0.25
Annual solids deposition rate (g/m <sup>2</sup> /yr)	152 – 174	254 – 280
Critical 90-day solids deposition rate (g/m <sup>2</sup> /90-day)	45 – 51	72 – 79
Annual organic deposition rate (g/m <sup>2</sup> /yr)	122 – 139	203 – 224
Critical 90-day organic deposition rate (g/m <sup>2</sup> /90-day)	37 – 57	58 – 64
Steady-state organic accumulation (g/m <sup>2</sup> )	33 – 38	56 – 62

Modeled estimates for annual solids deposition rate ranged from 152 to 280 g/m<sup>2</sup>/yr and the critical 90-day solids deposition rate ranged from 45 to 79 g/m<sup>2</sup>/yr.

Although a portion of the settled solids is inert, the organic fraction of the settled solids is a primary concern around outfalls. Assuming that effluent solids are 80% organic matter (USEPA, 1994), modeled estimates for annual organic deposition rate ranged from 122 to 224 g/m<sup>2</sup>/yr and the critical 90-day solids deposition rate ranged from 37 to 64 g/m<sup>2</sup>/yr. Although not strictly comparable, a reasonable estimate of organic carbon flux from the water column associated with primary and secondary production in Southern California is 26 to 62 g C/m<sup>2</sup>/yr (Nelson et al., 1987).

Estimates of steady-state organic accumulation ranged from 33 to 62 g/m<sup>2</sup>, over the area modeled. The steady-state accumulation of organic matter in sediments is a function of the rate that organic matter is deposited and the rate at which it decays. Both the applicant and EPA used the conservative assumption that there is no resuspension or transport of solids to outside the area modeled and the typical default decay rate of 0.01/day. This tends to overestimate the actual accumulation of outfall deposits in sediments. For instance, Hendricks and Eganhouse (1992) estimated a background accumulation rate for solids of 103 g/m<sup>2</sup>/yr, about one-sixth of their estimate for solids deposition. Applying this ratio to the model results in Table 16 for annual organic deposition rate (g/m<sup>2</sup>/yr), yields estimates for organic accumulation rate ranging from 20 to 37 g/m<sup>2</sup>/yr and steady-state organic accumulation rate ranging from 5 to 10 g/m<sup>2</sup>. Empirical evidence suggests



that steady-state organic accumulations less than 50 g/m<sup>2</sup> have minimal effects on benthic communities (USEPA, 1982).

To both evaluate whether significant accumulation is actually occurring in the area of the outfall and identify trends, EPA examined sediment monitoring data for pre-discharge (1991-1993) and discharge monitoring surveys (1994-2006) conducted during July, at the depth of the outfall along the 98 meter contour (Figure A-4). (Under its existing NPDES permit, the City conducts the required semi-annual monitoring, during January and July, at 12 primary stations located along the 98 meter contour and a total of 10 secondary stations located along the 88 and 116 meter contours.) For perspective, values from the 98 meter stations are compared with San Diego's regional surveys (Volume IV, Appendix E, of the application) and the Southern California Bight regional survey conducted in 2003 (Schiff et al., 2006).

### **Sediment Grain Size Characteristics**

Information about sediment grain size characteristics (e.g., particle size, percent fines) and the dispersion of sediment particles at a survey sight is indicative of hydrodynamic regimes and allows for better interpretation of chemical and biological data collected at the sight. Measured mean particle size and percent fines and trends around the Point Loma outfall are summarized in Figures E-2 and E-4 of Volume IV, Appendix E, of the application. The mean particle size for all 98 meter stations during the pre-discharge and discharge periods is 0.061 millimeters (mm) and 0.069 mm, respectively. During these two periods, the mean particle size at near-ZID station E14 is 0.062 mm and 0.102 mm, respectively. The percentage of fine sediments (silt and clay) for all 98 meter stations during the pre-discharge and discharge periods has a mean of about 40 percent and 37 percent, respectively. During these two periods, percent fines at near-ZID station E14 is about 40 percent and 30 percent, respectively.

The applicant reports that the slight increase in mean particle size observed at near-ZID station E14 is likely related to the movement of ballast material supporting the outfall pipe and the presence of patchy sediments in the area. The applicant also notes that sediments at northern reference station B12 are frequently characterized by the presence of very coarse material (shell hash and gravel) which distinguishes this station from other 98 meter stations. Consequently, this review uses northern reference station B9 as the primary reference station for making comparisons.

The mean particle size at station B9 during the pre-discharge and discharge periods is 0.054 mm and 0.060 mm, respectively. During these two periods, percent fines at station B9 is about 42 percent and 40 percent, respectively. For mid-shelf sediments (30-120 meters) summarized for the Southern California Bight regional survey in 2003, the area-weighted mean and 95% confidence interval for fine sediments is 45±8.4 percent. Figure E.5-1 in Volume IV, Attachment E.5, of the application summarizes percent fines in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

Overall, there appears to be little change over time in sediment grain size characteristics relative to the outfall. The year-to-year variation in sediment grain size characteristics observed at station E14 are likely due to the movement of outfall ballast material.

### **Organic Indicators**

Concentrations of total organic carbon, total volatile solids, total nitrogen, biochemical oxygen demand, and sulfides are measured as indicators of organic enrichment in sediments. Total organic carbon and total volatile solids represent more direct measurements of carbon imported as fine particulate matter.

**Total Organic Carbon.** Total organic carbon is a direct measure of the amount of organic carbon in sediments. Figure A-9 summarizes percent total organic carbon in sediment at each 98 meter station, during July, from 1993 through 2006. There does not appear to be a spatial trend in percent total organic carbon at these stations; however, during 2005 and 2006, there is a slight increase in percent total organic carbon at all 98 meter stations which does not appear to be related to the outfall. For January and July surveys, the mean percent total organic carbon for all 98 meter stations during the pre-discharge (1993) and most recent discharge period (2001-2006) is about 0.5 percent and 0.6 percent, respectively. During these two periods, the mean percent total organic carbon at near-ZID station E14 is about 0.5 percent and 0.5 percent, respectively, while levels at northern reference station B9 are about 0.6 percent and 0.6 percent, respectively. For mid-shelf sediments summarized for the 2003 Southern California Bight regional survey, the area-weighted mean and 95% confidence interval for total organic carbon is  $0.75 \pm 0.19$  percent. These data do not suggest an outfall related effect. Figure E.5-2 in Volume IV, Attachment E.5, of the application summarizes percent total organic carbon in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

**Total Volatile Solids.** Total volatile solids is a measure of organic carbon and nitrogenous matter in sediments. Figure A-10 summarizes percent total volatile solids in sediment at each 98 meter station, during July, from 1991 through 2006. At these stations, discharge period levels are slightly higher than pre-discharge levels and there appears to be a weak spatial trend where levels slightly increase with distance from the outfall. For January and July surveys, the mean percent total volatile solids for all 98 meter stations during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) is about 2.2 percent and 2.4 percent, respectively. During these two periods, the mean percent total volatile solids at near-ZID station E14 is about 2.1 percent and 2.0 percent, respectively, while levels at northern reference station B9 are about 2.4 percent and 3.2 percent, respectively. These data do not suggest an outfall-related effect. Figure E.5-3 in Volume IV, Attachment E.5, of the application summarizes percent total volatile solids in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

**Total Nitrogen.** Figure A-11 summarizes percent total nitrogen in sediment at each 98 meter station, during July, from 1993 through 2006. At these stations, discharge period

levels are slightly higher than pre-discharge levels and there appears to be a weak spatial trend where levels slightly increase with distance from the outfall. For January and July surveys, the mean percent total nitrogen for all 98 meter stations during the pre-discharge (1993) and most recent discharge period (2001-2006) is about 0.04 percent and 0.05 percent, respectively. During these two periods, the mean percent total nitrogen at near-ZID station E14 is about 0.03 percent and 0.5 percent, respectively, while during these two periods, levels at northern reference station B9 are about 0.05 percent and 0.06 percent, respectively. For mid-shelf sediments summarized for the 2003 Southern California Bight regional survey, the area-weighted mean and 95% confidence interval for total nitrogen is  $0.05 \pm 0.01$  percent. These data do not suggest an outfall-related effect. Figure E.5-4 in Volume IV, Attachment E.5, of the application summarizes percent total nitrogen in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

**Biochemical Oxygen Demand.** Biochemical oxygen demand is an indirect measure of organic enrichment in sediments. Figure A-12 summarizes biochemical oxygen demand concentrations in sediment at each 98 meter station, during July, from 1991 through 2006. At these stations, discharge period levels are slightly higher than pre-discharge levels and year-to-year concentrations measured at each station are quite variable. For January and July surveys, the mean biochemical oxygen demand concentrations for all 98 meter stations during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) are 270 parts per million (ppm) and about 320 ppm, respectively. During these two periods, the mean biochemical oxygen demand concentrations at near-ZID station E14 are about 250 ppm and 470 ppm, respectively, while concentrations at northern reference station B9 are about 300 ppm and 310 ppm, respectively. These data suggest that a small amount of organic enrichment is occurring close to the outfall diffuser.

**Sulfides.** Sulfides are a byproduct of anaerobic digestion of organic material by sulfur bacteria. Figure A-13 summarizes sulfide concentrations in sediment at each 98 meter station, during July, from 1991 through 2006. At these stations, discharge period levels are generally higher than pre-discharge levels and year-to-year concentrations measured at stations close to the outfall (E17, E14, E11) are distinctly higher and quite variable. (Station E14 is located about 120 meters from the center of the diffuser legs and stations E17 and E11 are located about 250 to 300 meters from the ends of the diffuser legs.) For January and July surveys, the mean sulfide concentrations for all 98 meter stations during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) are 1.2 ppm and 3.9 ppm, respectively. During these two periods, the mean sulfide concentrations at near-ZID station E14 are 1.7 ppm and 16.2 ppm, respectively, while concentrations at northern reference station B9 are 0.5 ppm and 1.2 ppm, respectively. These data suggest that a small amount of organic enrichment is occurring close to the outfall diffuser. Figure E.5-5 in Volume IV, Attachment E.5, of the application summarizes sulfide concentrations in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

Modeling predictions indicate that deposition and accumulation rates associated with the Point Loma Ocean Outfall are not likely to have negative effects on benthic communities beyond the zone of initial dilution. Monitoring results for sediment parameters associated with organic enrichment suggest a mixed picture relative to the potential for biological effects close to the outfall diffuser. Only biochemical oxygen demand and sulfides are elevated at near-ZID station E14; sulfides are variably elevated at nearfield stations E17 and E11. However, as described below, monitoring results for biological indicators of organic enrichment lead EPA to conclude that significant effects on the benthic macrofauna community are not occurring in areas beyond the zone of initial dilution. EPA also concludes that the modified discharge complies with applicable California Ocean Plan water quality objectives for chemical characteristics of marine sediments.

### **Trace Metals and Toxic Organics**

Chapter II of the California Ocean Plan contains the following water quality objective for chemical characteristics in marine sediments: “The concentration of substances set forth in Chapter II, Table B, in marine sediments shall not be increased to levels which would degrade indigenous biota.”

To both evaluate whether trace metals and toxic organic compounds are found at elevated concentrations in the area of the outfall and identify trends, EPA examined sediment monitoring data for pre-discharge (1991-1993) and discharge monitoring surveys (1994-2006) conducted during July, at the depth of the outfall along the 98 meter contour (Figure A-4). Ten metals, total DDTs, total PCBs, and total PAHs are reviewed. For perspective, parameter concentrations from the 98 meter stations are compared with non-regulatory NOAA sediment quality guidelines developed for the National Status and Trends Program (NOAA, 1999) and area-weighted means and 95% confidence intervals for mid-shelf (30-120 meters) sediments summarized for the Southern California Bight regional survey in 2003 (Table 17). The sediment quality guideline concentrations provided by NOAA represent the 10<sup>th</sup> percentile (or Effects Range-Low) and 50<sup>th</sup> percentile (or Effects Range-Median) of a toxicological effects database that has been compiled by NOAA for each parameter. The ERL is indicative of the concentrations below which adverse effects rarely occur and the ERM is representative of the concentrations above which effects frequently occur. The method detection limits (MDLs) for parameters monitored in sediments at the 98 meter stations are presented in the City’s annual receiving water monitoring reports for the Point Loma Ocean Outfall.

Table II.A-11 in Volume III of the application includes summary data for trace metals monitored in the Point Loma WTP effluent during 2002 through 2006. Known or suspected industrial and nonindustrial sources for pollutants of concern found in the Point Loma WTP effluent are summarized in Table III.H-8, Volume III of the application. Table 2-1 in Volume II of the application estimates 2002 through 2006 mean annual mass emissions (in metric tons per year) for California Ocean Plan Table B parameters discharged from the Point Loma Ocean Outfall; for this calculation, the applicant multiplies the annual average effluent concentration by the annual average discharge flow; effluent results of “not detected” are assumed by the applicant to have a

concentration equal to or less than one-half the method detection limit. Table K.5-2 in Volume VIII of the application summarizes Point Loma WTP effluent mass emissions for cadmium, chromium, copper, lead, nickel, silver, and zinc, beginning in 1979 through 2006. (For reference, 1 metric ton is 1,000 kilograms which is approximately 2,205 pounds.)

Table 17. NOAA sediment quality guidelines, area-weighted means and 95% confidence intervals for mid-shelf (30-120 meters) sediments summarized for the Southern California Bight regional survey in 2003, and the applicant's method detection limits during 2006.

Parameter	NOAA ERL	NOAA ERM	Bight '03	MDL in 2006
Arsenic (ppm)	8.2	70	4.1+1.1	0.33
Cadmium (ppm)	1.2	9.6	0.36+0.11	0.01
Chromium (ppm)	81	370	36+8.0	0.016
Copper (ppm)	34	270	12+2.1	0.028
Lead (ppm)	46.7	218	7.4+1.5	0.142
Mercury (ppm)	0.15	0.71	0.10+0.03	0.003
Nickel (ppm)	20.9	51.6	14+3.7	0.036
Selenium (ppm)	---	---	1.2+0.43	0.24
Silver (ppm)	1.0	3.7	0.11+0.06	0.013
Zinc (ppm)	150	410	47+8.4	0.052
Total DDTs (ppt)	1,580	46,100	36,000±6,300	See annual report.
Total PCBs (ppt)	22,700	180,000	2,400±130	
Total PAHs (ppb)	4,022	44,792	60.3±43.3	

Arsenic. The applicant reports that arsenic is detected in 221 of 228 effluent samples during 2002 through 2006. Identified sources are pest control poisons. The 2002-2006 mean annual mass emission rate for the Point Loma WTP discharge is <0.26 metric tons per year.

Figure A-14 summarizes arsenic concentrations in sediment at each 98 meter station, during July, from 1991 through 2006. At these stations, discharge period levels are slightly higher than pre-discharge levels; these increases are most pronounced at near-ZID station E14 and northern reference station B12. For January and July surveys, the mean arsenic concentrations for all 98 meter stations during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) are 2.4 ppm and 3.2 ppm, respectively. During these two periods, the mean arsenic concentrations at near-ZID station E14 are 2.2 ppm and 3.4 ppm, respectively, while concentrations at northern reference station B9 are 2.1 ppm and 3.5 ppm, respectively. These concentrations are below the ERL threshold and similar to the average background level for mid-depth

sediments summarized for the 2003 Southern California Bight survey. Figure E.5-7 in Volume IV, Attachment E.5, of the application summarizes arsenic concentrations in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

**Cadmium.** The applicant reports that cadmium is detected in 65 of 228 effluent samples during 2002 through 2006. Identified sources are metal plating, metalworking and metal alloys, electronics, and batteries. The 2002-2006 mean annual mass emission rate for the Point Loma WTP discharge is <0.12 metric tons per year; during this period, annual mass emissions for cadmium have decreased.

Figure A-15 summarizes cadmium concentrations in sediment at each 98 meter station, during July, from 1991 through 2006. At these stations, discharge period levels are much lower than pre-discharge levels; the elevated and variable levels recorded during the pre-discharge period are no longer observed and the applicant explains that the frequent detections which begin during the most recent discharge period are due to an improved method detection limit. For January and July surveys, the mean cadmium concentrations for all 98 meter stations during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) are 1.3 ppm and 0.1 ppm, respectively. During these two periods, the mean cadmium concentrations at near-ZID station E14 are 1.1 ppm and 0.1 ppm, respectively, while concentrations at northern reference station B9 are 1.3 ppm and 0.1 ppm, respectively. Concentrations for the most recent discharge period are below the ERL threshold and the average background level for mid-depth sediments summarized for the 2003 Southern California Bight survey. Figure E.5-9 in Volume IV, Attachment E.5, of the application summarizes cadmium concentrations in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

**Chromium.** The applicant reports that chromium is detected in 115 of 228 effluent samples during 2002 through 2006. Identified sources are metal plating, shipbuilding, and metalworking and metal alloys. The 2002-2006 mean annual mass emission rate for chromium (III) in the Point Loma WPT discharge is <0.66 metric tons per year; during this period, annual mass emissions for chromium have increased.

Figure A-16 summarizes chromium concentrations in sediment at each 98 meter station, during July, from 1991 through 2006. At these stations, discharge period levels are similar to pre-discharge levels. For January and July surveys, the mean chromium concentrations for all 98 meter stations during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) are 17.3 ppm and 17.6 ppm, respectively. During these two periods, the mean chromium concentrations at near-ZID station E14 are 15.8 ppm and 14.6 ppm, respectively, while concentrations at northern reference station B9 are 21.8 ppm and 22.8 ppm, respectively. These concentrations are below both the ERL threshold and the average background level for mid-depth sediments summarized for the 2003 Southern California Bight survey. Figure E.5-10 in Volume IV, Attachment E.5, of the application summarizes chromium concentrations in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

Copper. The applicant reports that copper is detected in 228 of 228 effluent samples during 2002 through 2006. Identified sources are metal plating, electronics, tool manufacturing, electroplating, semiconductor manufacturing, shipbuilding, metalworking, and water pipe corrosion. The 2002-2006 mean annual mass emission rate for copper in the Point Loma WPT discharge is 12 metric tons per year; during this period, annual mass emissions for copper have decreased.

Figure A-17 summarizes copper concentrations in sediment at each 98 meter station, during July, from 1991 through 2006. At these stations, discharge period levels are slightly higher than pre-discharge levels; levels at southern reference station E2 (near the LA-5 dredge materials disposal site) are generally elevated when compared to other 98 meter stations. For January and July surveys, the mean copper concentrations for all 98 meter stations during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) are 7.4 ppm and 8.6 ppm, respectively. During these two periods, the mean copper concentrations at near-ZID station E14 are 6.7 ppm and 8.3 ppm, respectively; while concentrations at northern reference station B9 are 6.8 ppm and 8.7 ppm, respectively. These concentrations are below both the ERL threshold and the average background level for mid-depth sediments summarized for the 2003 Southern California Bight survey. Concentrations at southern farfield station E2 are below the ERL threshold, but slightly higher than the average background level for the Southern California Bight survey. Figure E.5-11 in Volume IV, Attachment E.5, of the application summarizes copper concentrations in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

Lead. The applicant reports that lead is detected in 21 of 228 effluent samples during 2002 through 2006. Identified sources are metal plating, metalworking, paints, and batteries. The 2002-2006 mean annual mass emission rate for lead in the Point Loma WPT discharge is <1.3 metric tons per year; during this period, annual mass emissions for lead have increased.

Figure A-18 summarizes lead concentrations in sediment at each 98 meter station, during July, from 1991 through 2006. At these stations, the discharge period levels appear higher than pre-discharge levels; however, this may be due, in part, to improved method detection limit beginning in 2003. For January and July surveys, the mean lead concentrations for all 98 meter stations during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) are 1.8 ppm and 3.9 ppm, respectively. During these two periods, the mean lead concentrations at near-ZID station E14 are 1.0 ppm and 2.8 ppm, respectively, while concentrations at northern reference station B9 are 1.2 ppm and 4.2 ppm, respectively. These concentrations are below both the ERL threshold and the average background level for mid-depth sediments summarized for the 2003 Southern California Bight survey. Figure E.5-13 in Volume IV, Attachment E.5, of the application summarizes lead concentrations in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

Mercury. The applicant reports that mercury is detected in 7 of 228 effluent samples during 2002 through 2006. Identified sources are orthodontics, thermostats, and

thermometers. The 2002-2006 mean annual mass emission rate for mercury in the Point Loma WPT discharge is <0.02 metric tons per year; during this period, annual mass emissions for mercury have decreased.

Figure A-19 summarizes mercury concentrations in sediment at each 98 meter station, during July, from 1991 through 2006. At these stations, discharge period levels are higher than pre-discharge levels and quite variable from year-to-year; levels at southern reference station E2 (near the LA-5 dredge materials disposal site) are generally elevated when compared to other 98 meter stations. For January and July surveys, the mean mercury concentrations for all 98 meter stations during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) are 0.011 ppm and 0.024 ppm, respectively. During these two periods, the mean mercury concentrations at near-ZID station E14 are 0.006 ppm and 0.017 ppm, respectively, while concentrations at northern reference station B9 are 0.002 ppm and 0.023 ppm, respectively. These concentrations are below both the ERL threshold and the average background level for mid-depth sediments summarized for the 2003 Southern California Bight survey. Concentrations at southern farfield station E2 are below both the ERL threshold and the average background level for the Southern California Bight survey. Figure E.5-15 in Volume IV, Attachment E.5, of the application summarizes mercury concentrations in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

Nickel. The applicant reports that nickel is detected in 121 of 228 effluent samples during 2002 through 2006. Identified sources are metal plating, metalworking, and metal alloys. The 2002-2006 mean annual mass emission rate for nickel in the Point Loma WPT discharge is <2.0 metric tons per year; during this period, annual mass emissions for nickel have increased.

Figure A-20 summarizes nickel concentrations in sediment at each 98 meter station, during July, from 1991 through 2006. At these stations, discharge period levels are similar to pre-discharge levels. For January and July surveys, the mean nickel concentrations for all 98 meter stations during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) are 6.6 ppm and 6.3 ppm, respectively. During these two periods, the mean nickel concentrations at near-ZID station E14 are 5.7 ppm and 6.5 ppm, respectively, while concentrations at northern reference station B9 are 7.3 ppm and 7.2 ppm, respectively. These concentrations are below both the ERL threshold and the average background level for mid-depth sediments summarized for the 2003 Southern California Bight survey. Figure E.5-16 in Volume IV, Attachment E.5, of the application summarizes nickel concentrations in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

Selenium. The applicant reports that selenium is detected in 228 of 228 effluent samples during 2002 through 2006. Identified sources are water supply. The 2002-2006 mean annual mass emission rate for selenium in the Point Loma WPT discharge is <0.26 metric tons per year; during this period, annual mass emissions for selenium have remained relatively constant.



Figure A-21 summarizes selenium concentrations in sediment at each 98 meter station, during July, from 1991 through 2006. At these stations, discharge period levels are much lower than pre-discharge levels. The elevated and variable levels recorded during the pre-discharge period are no longer observed; however, the infrequent detections and resulting lower average concentrations for the most recent discharge period are likely due, in part, to use of a less sensitive method detection limit which began in 2003. For January and July surveys, the mean selenium concentrations for all 98 meter stations during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) are 0.2 ppm and 0.1 ppm, respectively. During these two periods, the mean selenium concentrations at near-ZID station E14 are 0.2 ppm and 0.1 ppm, respectively, while concentrations at northern reference station B9 are 0.3 ppm and 0.1 ppm, respectively. These concentrations are well below the average background level for mid-depth sediments summarized for the 2003 Southern California Bight survey. There is no ERL threshold for selenium. Figure E.5-17 in Volume IV, Attachment E.5, of the application summarizes selenium concentrations in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

**Silver.** The applicant reports that silver is detected in 35 of 228 effluent samples during 2002 through 2006. Identified sources are photo processing. The 2002-2006 mean annual mass emission rate for silver in the Point Loma WPT discharge is <0.4 metric tons per year; during this period, annual mass emissions for silver have decreased and then remained relatively constant.

Figure A-22 summarizes silver concentrations in sediment at each 98 meter station, during July, from 1991 through 2006. At these stations, silver is rarely detected, but EPA notes that the detections which begin during the most recent discharge period (2001-2006) are likely due to an improved method detection limit beginning in 2003. For January and July surveys, the mean silver concentration for all 98 meter stations during the most recent discharge period (2001-2006) is 0.054 ppm. During this period, the mean silver concentration at near-ZID station E14 is 0.045 ppm, while the concentration at northern reference station B9 is 0.057 ppm. During the most recent discharge period, all silver concentrations are below the ERL threshold. During the most recent discharge period, except in 2006, all silver concentrations are generally below the average background level for mid-depth sediments summarized for the 2003 Southern California Bight survey. Figure E.5-18 in Volume IV, Attachment E.5, of the application summarizes silver concentrations in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

**Zinc.** The applicant reports that zinc is detected in 225 of 228 effluent samples during 2002 through 2006. Identified sources are metalworking, electronics, tool manufacturing, electroplating, circuit printing, shipbuilding, metalworking, research institutions, and water pipe corrosion. The 2002-2006 mean annual mass emission rate for zinc in the Point Loma WPT discharge is 5.9 metric tons per year; during this period, annual mass emissions for zinc have remained relatively constant.

Figure A-23 summarizes zinc concentrations in sediment at each 98 meter station, during July, from 1991 through 2006. At these stations, discharge period levels are similar to pre-discharge levels. For January and July surveys, the mean zinc concentrations for all 98 meter stations during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) are 28.0 ppm and 27.8 ppm, respectively. During these two periods, the mean zinc concentrations at near-ZID station E14 are 25.2 ppm and 23.7 ppm, while concentrations at northern reference station B9 are 31.6 ppm and 33.9 ppm, respectively. These concentrations are below both the ERL threshold and the average background level for mid-depth sediments summarized for the 2003 Southern California Bight survey. Figure E.5-19 in Volume IV, Attachment E.5, of the application summarizes zinc concentrations in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

**Total DDTs.** DDT and its derivatives are pesticides that were banned for use in the U.S. in 1972, but are still used in some countries. The applicant reports that DDT and its derivatives are generally not detected in effluent samples. (In 2006, the method detection limits for DDT and its derivatives in effluent ranged from 10 to 60 ng/l.) The 2002-2006 mean annual mass emission rate for the Point Loma WTP discharge is “not detected”.

Figure A-24 summarizes concentrations in sediment for total DDTs at each 98 meter station, during July, from 1991 through 2006; since 1997, concentrations are detected less frequently. For January and July surveys, the mean concentration for total DDTs at all 98 meter stations during the most recent discharge period (2001-2006) is 137 parts per trillion (ppt). (In 2007, the method detection limits for DDT and its derivatives in sediment ranged from 400 to 700 ppt.) During this period, the mean concentration is 42 ppt at near-ZID station E14 and 412 ppt at northern reference station B9. During the most recent discharge period, individual station concentrations are well below both the ERL threshold and the average background level for mid-depth sediments summarized for the 2003 Southern California Bight survey, except at nominal northern reference station B9 and southern farfield station E2, where concentrations higher than the ERL threshold are reported in 2001. Figure E.5-20 in Volume IV, Attachment E.5, of the application summarizes total DDT concentrations in sediments for the San Diego Coastal region during the period of the discharge (1994-2000 and 2001-2006).

**Total PCBs.** PCBs are synthetic organic chemicals used as coolants and lubricants in transformers and capacitors; they were banned from industrial use in the U.S. in 1977. The applicant reports that PCBs are generally not detected in effluent samples. (In 2006, the method detection limit for PCBs in effluent was 4,000 ng/l). The 2002-2006 mean annual mass emission rate for the Point Loma WTP discharge is “not detected”.

EPA reviewed summary concentrations in sediment for total PCBs at each 98 meter station, during July, from 2001 through 2006; concentrations are only rarely detected at these stations. For January and July surveys, the mean concentration for total PCBs at all 98 meter stations during the most recent discharge period (2001-2006) is 62 ppt. (In 2007, the method detection limit for all but three of the 41 monitored PCB congeners is 700 ppt.) During this period, the mean concentration is “not detected” at both near-ZID

station E14 and northern reference station B9. During the most recent discharge period, all individual station concentrations are well below both the ERL threshold and the average background level for mid-depth sediments summarized for the 2003 Southern California Bight survey, including southern farfield station E5 (in 2001) and southern farfield station E2 (in 2002, 2004 and 2006) where PCBs detections are reported.

**Total PAHs.** PAHs are a group of 100 different chemicals formed during the incomplete burning of coal, oil and gas, garbage, or other organic substance. They are found in coal tar, crude oil, creosote, and roofing tar, but a few are used in medicines or to make dyes, plastics, and pesticides. The applicant reports that PAHs are generally not detected in effluent samples. (In 2006, the method detection limit for PAHs in effluent was 6.61 ug/l). The 2002-2006 mean annual mass emission rate for the Point Loma WTP discharge is "not detected".

EPA reviewed summary concentrations in sediment for total PAHs at each 98 meter station, during July, from 2001 through 2006. At these stations, pre-discharge and discharge period levels are almost always "not detected", until 2003 when method detection limits are improved; subsequently, PAHs are usually detected at each station (Figure A-25). For January and July surveys, the mean concentration for total PAHs at all 98 meter stations during the most recent discharge period (2001-2006) is 110 parts per billion (ppb). During this period, the mean concentration is 78 ppb at near-ZID station E14 and 110 ppb at northern reference station B9. During the most recent discharge period, all individual station concentrations are well below both the ERL threshold and the average background level for mid-depth sediments summarized for the 2003 Southern California Bight survey.

Based on this review, EPA concludes that the chemical characteristics in sediments beyond the zone of initial dilution are not changed by the modified discharge such that toxic substances in Table B of the California Ocean Plan are increased to levels which would degrade indigenous biota.

## **2. Impact of the Discharge on Public Water Supplies**

Implementing CWA section 301(h)(2), 40 CFR 125.62(b) specifies that the discharge must allow for the attainment and maintenance of water quality that assures protection of public water supplies. Appendix III, Large Applicant Questionnaire section III.C, of the application describes a planned seawater desalination facility in San Diego County that is located about 30 miles north of the PLOO discharge (Regional Water Board Order No. R9-2006-0065, NPDES No. CA0109233). Based on the expected ability of the Point Loma WTP discharge to meet water quality standards and the distance to the nearest desalination facility, EPA concludes that the applicant's proposed modified discharge will have no effect on the protection of public water supplies and will not interfere with the use of planned or existing public water supplies.

### **3. Impact of the Discharge on Shellfish, Fish, and Wildlife**

Implementing CWA section 301(h)(2), 40 CFR 125.62(c)(1) through (3) specify that the modified discharge must allow for the attainment or maintenance of water quality which assures protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife. A balanced indigenous population must exist immediately beyond the zone of initial dilution of the applicant's modified discharge; and in all other areas beyond the zone of initial dilution where marine life is actually or potentially affected by the discharge. Conditions within the zone of initial dilution must not contribute to extreme adverse biological impacts, including, but not limited to, the destruction of distinctive habitats of limited distribution, the presence of disease epicenters, or the stimulation of phytoplankton blooms which have adverse effects beyond the zone of initial dilution. The term "balanced indigenous population" is defined at 40 CFR 125.58 and means an ecological community which exhibits characteristics similar to those of nearby, healthy communities existing under comparable but unpolluted environmental conditions; or may reasonably be expected to become re-established in the polluted water body segment from adjacent waters if sources of pollution were removed. Also, Chapter II of the California Ocean Plan contains the following water quality objective for biological characteristics of ocean waters: "Marine communities, including vertebrate, invertebrate, and plant species, shall not be degraded." For this review, biological data collected by the applicant are analyzed in three categories: phytoplankton, benthic infauna, and fish and epibenthic invertebrates.

#### ***a. Phytoplankton***

Wastewater discharges from ocean outfalls may influence the abundance and distribution of plankton in two important ways. Effluent particulates may rise into the euphotic zone (generally less than 20 meter water depths) and inhibit light penetration, thereby reducing phytoplankton primary productivity. Also, nutrient loading can cause an increase in the abundance of undesirable species. The California Ocean Plan specifies that in ocean water: "Natural light shall not be significantly reduced at any point outside the initial dilution zone as the result of the discharge of waste." and "Nutrient materials shall not cause objectionable aquatic growths or degrade indigenous biota." There are no numerical water quality objectives for nutrients in the California Ocean Plan. Compliance with these water quality objectives are determined from samples collected at stations representative of the area within the wastefield where initial dilution is completed. The typical depth range of the PLOO wastefield is 60 to 80 meters below the surface which is well below the euphotic zone. Under its existing NPDES permit, the City is not required to monitor plankton or ammonia. Therefore, EPA has reviewed parameters monitored by the applicant that relate to phytoplankton productivity and standing stock, such as effluent total suspended solids, light transmittance, effluent ammonia, and chlorophyll a. Attachment T1 in Volume XIII, Appendix T, of the 1995 application describes the plankton communities found in waters off San Diego County and summarizes studies on phytoplankton conducted on a regional scale in the Southern California Bight.

Based on the water quality modeling result for total suspended solids concentrations at the completion of initial dilution under worst case conditions and monitoring data for light transmittance throughout the water column, EPA concludes that the Point Loma discharge does not result in a significant reduction in natural light in areas within the wastefield where initial dilution is completed. This indicates that the discharge of total suspended solids should not result in a significant change in the productivity or standing stock of phytoplankton.

Total ammonia-nitrogen ( $\text{NH}_4^+\text{-N}$  and  $\text{NH}_3\text{-N}$ ) in an effluent discharge may affect phytoplankton productivity and standing stock because nitrogen is a limiting nutrient in coastal waters of the Southern California Bight. Under its existing NPDES permit, the City conducts the required weekly effluent monitoring for ammonia (expressed as nitrogen). Effluent data for ammonia-nitrogen are summarized, as follows.

Table 18. Monthly average and annual average effluent concentrations for total ammonia-nitrogen (mg/l) at Point Loma WTP.

Month	2002	2003	2004	2005	2006	2007
January	29.4	26.0	28.6	24.2	29.5	31.2
February	27.1	25.4	25.7	26.0	32.3	31.0
March	29.0	24.4	27.5	23.8	31.1	31.0
April	29.1	28.9	26.8	27.7	30.4	32.7
May	30.0	29.5	29.0	27.9	30.7	31.7
June	26.4	30.2	28.6	29.3	29.3	32.5
July	26.8	29.6	27.8	28.4	30.1	32.2
August	28.4	27.9	28.8	28.1	30.5	30.5
September	26.9	28.7	27.3	28.6	30.4	31.4
October	27.3	27.9	25.2	28.6	30.6	31.7
November	27.8	26.6	26.4	28.7	30.9	30.6
December	26.3	27.7	26.7	28.9	32.6	28.5
Annual Average	27.9	27.7	27.4	27.5	30.7	31.3
Maximum Month	30.0	30.2	29.0	29.3	32.6	32.7
Minimum Month	26.3	24.4	25.2	23.8	29.3	28.5

Based on the effluent concentrations in Table 18 and the minimum monthly average initial dilution of 204:1 estimates for ammonia at the completion of initial dilution range from 0.1 to 0.2 mg/l. Such concentrations in the euphotic zone have the potential to stimulate phytoplankton productivity around an outfall, as natural background concentrations for ammonia within the euphotic zone of the Southern California Bight are typically an order of magnitude lower (Eppley et al., 1979). Based on the applicant's dilution modeling using time series data, the height-of-rise to the average level of minimum dilution varies from about 20 to 31 meters above the bottom, corresponding to water depths of 62 to 74 meters. The height-of-rise to the average top of the wastefield varies from about 30 to 40 meters above the bottom, corresponding to water depths of

about 54 to 64 meters. The maximum height-of-rise to the top of the wastefield during a month varies from about 50 to 64 meters above the bottom, corresponding to water depths of about 30 to 44 meters. Figure O-16 in Volume VIII, Appendix O, of the application. Both dilution modeling and bacteria monitoring data at offshore stations support the conclusion that the wastewater plume is trapped below the euphotic zone most of the time. Consequently, the influence of wastefield ammonia concentrations on phytoplankton should be minimal.

Under its existing NPDES permit, the City conducts the required quarterly monitoring for chlorophyll a, throughout the water column, at a grid of 33 offshore stations located along the 98, 80 and 60 meter contours. EPA evaluated the applicant's monitoring results from October 2003 through October 2007. At water depths frequented by the drifting wastefield, the long-term average for chlorophyll a ranges from 0.8 to 1.4 ug/l. As shown in Table B-6 and Figure A-26, the long-term average for chlorophyll a measured at the near-ZID boundary station (F30) is similar to long-term averages measured at nearfield and farfield stations.

Based on the water quality modeling results for total suspended solids and ammonia concentrations at the completion of initial dilution and monitoring data for light transmittance and chlorophyll a throughout the water column evaluated in this review, EPA concludes that total suspended solids and nutrient materials in the Point Loma discharge will not result in a significant change in the productivity or standing stock of phytoplankton, will not cause natural light to be significantly reduced beyond the initial dilution zone, and will not cause objectionable aquatic growths or degrade indigenous biota.

#### ***b. Benthic Macrofauna***

Organisms with limited mobility that live in bottom sediments are used as indicators of the condition of marine environments because they respond to many different types of environmental stress and their responses integrate environmental conditions over time. Under its existing NPDES permit, the City conducts the required semi-annual monitoring, during January and July, at 12 primary stations located at the depth of the outfall along the 98 meter contour and a total of 10 secondary stations located along the 88 and 116 meter contours.

To evaluate the condition of the benthic macrofauna community in the area of the outfall and identify trends, EPA examined benthic macrofauna monitoring data for pre-discharge (1991-1993) and discharge monitoring surveys (1994-2006) conducted during July, at the depth of the outfall along the 98 meter contour (Figure A-4). A subset of these stations (E17, E14, and E11) spans the outfall diffuser. Near-ZID station E14 is closest to the diffuser, approximately 111 meters north and 256 meters west of the center of the diffuser wye. It is the most likely site to be impacted by the wastewater discharge. Nearfield stations E17 and E11 are located approximately 204 meters north and south, respectively, of the ends of the diffuser legs. The remaining "E" stations are considered farfield sites. The two "B" stations, located more than 11 kilometers north of the outfall,

were originally selected to represent reference or control sites. However, benthic macrofauna communities differed between the "B" and "E" stations prior to operation of the outfall (Volume IV, Appendix E, of the application). Therefore, northern farfield station E26 is used as an additional (nominal) reference or control site. This station, located about 8 kilometers north of the outfall, is considered the least likely "E" station to be impacted by the discharge.

Summary statistics and trends for species richness, total abundance of all taxa, total abundance of several indicator taxa, and a Southern California Bight benthic index are reviewed by EPA. Both the applicant and EPA use two statistical approaches to evaluate observed changes in various benthic macrofauna community parameters near the outfall diffuser relative to control sites and reference conditions.

### **BACIP Approach**

The applicant has used a BACIP (Before-After-Control-Impact-Paired) t-test to test the null hypothesis that there are no changes in various benthic macrofauna community parameters due to operation of the outfall. The BACIP model tests differences between control and impact sites at times before and after an impact event, in this case, the onset of wastewater discharge at the present location. Data are limited to three pre-discharge (1991-1993) and 13 discharge (1994-2006) surveys during July, at EPA's request. Near-ZID station E14 and nearfield stations E17 or E11 are used as separate "impact" sites for the analysis because they are close to the boundary of the zone of initial dilution and more susceptible to impact. To the north, stations B9 and E26 are used as separate control sites for the analysis. Seven dependent variables are analyzed: species richness, total abundance of all benthic macrofauna taxa, Benthic Response Index, and abundance of the pollution sensitive indicator taxon, *Amphiodia* spp., and three pollution tolerant indicator taxa, *Euphilomedes* spp., *Parvilucina tenuisculpta*, and *Capitella "capitata"* (a species complex).

The applicant notes that the spatial and temporal variation inherent to many biological communities may lead to an increased chance of Type II error (falsely concluding that no impact has occurred). One solution is to increase the probability of Type I error (falsely concluding that an impact has occurred) by changing alpha, thereby increasing the power of the test and making the detection of "impact" less conservative. Consequently, all BACIP analyses are interpreted using both the conventional Type I error rate of  $\alpha = 0.05$  and the higher Type I error rate of  $\alpha = 0.10$ . Results of the applicant's BACIP analyses are summarized in Table 19.

Table 19. BACIP t-test results for six dependent variables around the Point Loma Ocean Outfall. Pre-discharge n=3 and discharge n=13. “\*” means significant at alpha = 0.05; “\*\*” means significant at alpha = 0.1; and “ns” means not significant.

Indicator	Comparison (Control v. Impact)	t-value	p-value	Significance (July only)
Species Richness	E26 v. E17	2.513	0.012	*
	E26 v. E14	-2.120	0.026	*
	E26 v. E11	1.637	0.062	**
	B9 v. E17	-2.606	0.010	*
	B9 v. E14	-3.010	0.005	*
	B9 v. E11	-1.358	0.098	**
Total Abundance	E26 v. E17	-0.434	0.335	ns
	E26 v. E14	-0.464	0.325	ns
	E26 v. E11	0.082	0.468	ns
	B9 v. E17	-0.567	0.290	ns
	B9 v. E14	-2.569	0.011	*
	B9 v. E11	-1.319	0.104	ns
<i>Amphiodia</i> spp. Abundance	E26 v. E17	-2.531	0.012	*
	E26 v. E14	-3.482	0.002	*
	E26 v. E11	-2.363	0.017	*
	B9 v. E17	-1.255	0.115	ns
	B9 v. E14	-5.645	<0.001	*
	B9 v. E11	-1.391	0.093	**
<i>Euphilomedes</i> spp. Abundance	E26 v. E17	0.111	0.457	ns
	E26 v. E14	-1.965	0.035	*
	E26 v. E11	-1.476	0.081	**
	B9 v. E17	-2.550	0.012	*
	B9 v. E14	-4.304	<0.001	*
	B9 v. E11	-2.701	0.012	*
<i>Parvilucina tenuisculpta</i> Abundance	E26 v. E17	0.626	0.271	ns
	E26 v. E14	-0.109	0.457	ns
	E26 v. E11	1.373	0.096	**
	B9 v. E17	-0.884	0.196	ns
	B9 v. E14	-1.877	0.041	*
	B9 v. E11	0.483	0.318	ns

These results are discussed, below.

### Tolerance Interval Approach

An understanding of reference condition is important when evaluating environmental monitoring results. When appropriate data from regional reference locations are available, tolerance interval bounds can be computed to provide criteria or limits distinguishing reference from nonreference conditions. A tolerance interval is a statistical interval within which a specified proportion of the population falls, with some confidence. For example, it can describe—with a desired degree of statistical certainty—the lower 10<sup>th</sup> and upper 90<sup>th</sup> percentile of “average species richness” found among the San Diego regional monitoring stations for a particular benthic assemblage.

Based on a statistical analysis of sampling data from 1994 through 2003, the applicant determined the subset of San Diego regional survey stations which best represents a suitable reference assemblage for comparisons with “E” and “B” stations at the depth of



the outfall. This subset of regional stations is generally confined between the 60 and 120 meter depth contours and ranges from near Solana Beach in the north, to the Tijuana River region in the south. Summary statistics and tolerance interval bounds defining reference conditions for benthic macrofauna community parameters within the region of the PLOO are presented in Table 20. If an impact site value is near or within the tolerance interval bounds for reference conditions, then impact can be deemed minimal or nonexistent. The further an impact site value deviates from a reference condition bound, the more serious the impact should be judged.

Table 20. Tolerance intervals and summary data for various benthic indicators at randomly selected San Diego regional stations from 1994 through 2003, based on cluster group F (Attachment E.1 in Volume IV, Appendix E, of the application).

Indicator by Year											Tolerance Interval	
	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	Lower	Upper
<b>Species Richness</b>												
Mean	73.9	119.9	116.4	82.9	78.4	112.4	109.7	121.2	112.6	67.4	72	175
Min	33	48	33	30	26	38	56	52	37	21		
Max	137	206	266	165	179	242	203	226	244	119		
<b>Total Abundance</b>												
Mean	325.2	321.0	328.3	351.7	362.5	353.2	310.5	319.9	278.4	222.2	230	671
Min	91	56	45	79	39	87	73	65	67	56		
Max	1031	880	1219	1467	756	1166	585	1082	890	567		
<b><i>Amphiodia</i> spp. Abundance</b>												
Mean	39.7	45.1	52.6	45.0	58.2	41.4	53.5	32.0	32.9	19.8	1	216
Min	0	0	0	0	0	0	0	0	0	0		
Max	191	178	216	209	220	203	194	185	150	81		
<b><i>Euphilomedes</i> spp. Abundance</b>												
Mean	3.7	4.0	3.6	9.6	2.3	1.2	1.0	1.4	1.8	3.9	0	34
Min	0	0	0	0	0	0	0	0	0	0		
Max	28	25	17	93	15	9	9	12	14	34		
<b><i>Parvilucina tenuisculpta</i> Abundance</b>												
Mean	2.4	1.9	1.5	1.6	2.1	1.9	2.4	2.9	1.6	2.2	0	12
Min	0	0	0	0	0	0	0	0	0	0		
Max	17	14	10	12	12	12	12	12	12	21		
<b><i>Capitella "capitata"</i> Abundance</b>												
Mean	2.1	0.1	0.2	0.0	0.1	0.1	0.1	0.0	0.0	0.0	0	2
Min	0	0	0	0	0	0	0	0	0	0		
Max	69	2	3	0	2	1	1	0	0	1		
<b>Benthic Response Index</b>												
Mean	6.9	10.3	12.4	10.6	10.7	8.0	7.2	10.6	9.9	9.8	-0.65	15
Max	-14.2	-11.8	-4.7	-2.4	1.2	-5.2	-3.3	-4.2	-0.8	-4.6		
Min	32.0	30.6	26.4	28.5	20.2	24.1	24.8	22.3	24.6	20.3		

These results are discussed, below.

Species richness. A potential indicator of environmental degradation is a reduction in the number of benthic macrofauna taxa (diversity) present near an outfall. Figure A-27 summarizes the average species richness per 0.1 m<sup>2</sup> at each 98 meter station, during July, from 1991 through 2006. At these stations, the discharge period mean is higher than the pre-discharge mean; these increases are more pronounced at near-ZID station E14 and

northern reference station B12. Mean species richness for all 98 meter stations in July during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) is 70.7 and 97.0, respectively. During these two periods, mean species richness at near-ZID station E14 is 67.7 and 109.7, respectively, while mean species richness at northern reference station B9 is 64.2 and 91.5, respectively. BACIP analyses in Table 19 indicate that species richness at near-ZID station E14 and nearfield stations E17 or E11 are statistically significantly different when compared to either northern reference station B9 or nominal northern reference station E26. This suggests that organic enrichment may be enhancing the diversity of taxa near the outfall. During the most recent discharge period, average species richness ranged from 105.0 to 119.5 at station E14, 81.0 to 110.0 at station E17, and 80.0 to 117.5 at station E11. These impact site values are within the species richness tolerance interval (72-175) calculated for reference conditions identified in the San Diego regional surveys (Table 20). Thus, although changes in species richness at the outfall are statistically significant, they are not likely to be environmentally significant in comparison to Southern California Bight reference conditions.

Total abundance. Changes in the total abundance of benthic macrofauna taxa are used to demonstrate an outfall effect. These changes can vary depending on the level of organic enrichment in the area of an outfall. For example, total abundance is predicted to increase in response to low or moderate levels of organic enrichment. Generally, such increases are not considered adverse unless they are accompanied by a reduction in species richness, or material alterations in the abundances of pollution sensitive and pollution tolerant taxa. As organic enrichment increases, extremely high abundances associated with a further reduction in species richness is indicative of an adverse outfall effect. Abundances are expected to decline when organic enrichment causes anoxic conditions in sediments and indicates a degraded condition due to the outfall. Also see Appendix C in the ATSD (USEPA, 1994).

Figure A-28 summarizes the average total abundance of benthic macrofauna taxa per 0.1 m<sup>2</sup> at each 98 meter station, during July, from 1991 through 2006. At these stations, the discharge period mean is higher than the pre-discharge mean. Mean total abundance for all 98 meter stations in July during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) is 308.0 and 377.8, respectively. During these two periods, mean total abundance at near-ZID station E14 is 293.7 and 523.1, respectively, while mean total abundance at northern reference station B9 is 255.8 and 352.8, respectively. BACIP analyses in Table 19 indicate that mean total abundance at near-ZID station E14 and nearfield stations E17 or E11 are not statistically significantly different when compared to nominal northern reference station E26; only station E14 is statistically significantly different when compared to northern reference station B9. This suggests that while organic enrichment is occurring near the outfall, the effect on total abundance is relatively minor. During the most recent discharge period, average total abundance ranged from 446.5 to 590.5 at station E14, 240.5 to 475 at station E17, and 282.5 to 463 at station E11. These impact site values are within the total abundance tolerance interval (230-671) calculated for reference conditions identified in the San Diego regional surveys (Table 20). Although a statistically significant change in total abundance at the near-ZID boundary station E14 has occurred in relation to one control site, a similar change has not

occurred in relation to nominal reference station E26 (also a control site). Moreover, in relation to the tolerance interval, this change is not likely to be environmentally significant in comparison to Southern California Bight reference conditions.

### **Pollution Sensitive Indicator Taxon**

*Amphiodia* spp. For this review, EPA examined one pollution sensitive indicator taxon used to evaluate organic enrichment around outfalls. *Amphiodia urtica*, an ophiuroid echinoderm, is used as a key indicator species because it is one of the most abundant species found in mainland shelf sediments in the Southern California Bight and its populations decline near sewage outfalls. Both the applicant and EPA evaluated *Amphiodia* spp. (comprised of *A. urtica*, *A. digitata*, *A. psara*, and *A. sp.*). According to the applicant, *A. urtica* is most common at depths of about 60 meters and begins to naturally decrease at depths of about 100 meters. *A. digitata* is found in deeper waters and coarser sediments. The applicant grouped juveniles and damaged specimens as *A. sp.*

Figure A-29 summarizes the average abundance of *Amphiodia* spp. per 0.1 m<sup>2</sup> at each 98 meter station, during July, from 1991 through 2006. At these stations, the discharge period mean is slightly higher than the pre-discharge mean and year-to-year averages at near-ZID station E14 are distinctly lower and variable. Mean abundance for all 98 meter stations in July during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) is 41.7 and 37.0, respectively. During these two periods, mean abundance at near-ZID station E14 is 38.3 and 8.8, respectively, while mean abundance at northern reference station B9 is 35.7 and 48.0, respectively. BACIP analyses in Table 19 indicate that abundance at near-ZID station E14 and nearfield station E11 are statistically significantly different when compared to either northern reference station B9 or nominal northern reference station E26. BACIP analyses also indicate that abundance at near-ZID station E17 is statistically significantly different only when compared to nominal northern reference station E26. This reduction in abundance is likely due in large part to organic enrichment around the outfall, although the applicant has also hypothesized increased fish predation at the impact site or region-wide influences unrelated to the outfall. Figure A-29 suggests that the reduction in average abundance does not extend into the nearfield. During the most recent discharge period (2001-2006), average abundance ranged from 5.0 to 20.5 at station E14, 14 to 41.5 at station E17, and 20 to 64.5 at station E11. These impact site values are within the abundance tolerance interval (1-216) calculated for reference conditions identified in the San Diego regional surveys (Table 20). Although changes in the abundance of *Amphiodia* spp. at the outfall are statistically significant, they are not accompanied by a decrease in species richness or a detrimental increase in total abundance of benthic macrofauna taxa. Moreover, in relation to the tolerance interval, this change is not likely to be environmentally significant in comparison to Southern California Bight reference conditions.

### **Pollution Tolerant Indicator Taxa**

For this review, EPA examined three pollution tolerant indicator taxa used to evaluate organic enrichment around outfalls.

*Euphilomedes* spp. Crustaceans known to be tolerant of organic enrichment are ostracods in the genus, *Euphilomedes*. Both the applicant and EPA evaluated *Euphilomedes* spp. (comprised of *E. carcharodonta*, *E. producta*, *E. longiseta*, and *E. sp.*). According to the applicant, the ratio of *E. carcharodonta* and *E. producta* are about 50:50 at depths of about 100 meters.

Figure A-30 summarizes the average abundance of *Euphilomedes* spp. per 0.1 m<sup>2</sup> at each 98 meter station, during July, from 1991 through 2006. At these stations, the discharge period mean is similar to the pre-discharge mean and year-to-year averages generally trend lower with distance from the outfall. Mean abundance for all 98 meter stations in July during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) is 19.4 and 23.3, respectively. During these two periods, mean abundance at near-ZID station E14 is 18.3 and 41.3, respectively, while mean abundance at northern reference station B9 is 22.3 and 11.9, respectively. BACIP analyses in Table 19 indicate that abundance at near-ZID station E14 and nearfield station E11 are statistically significantly different when compared to either northern reference station B9 or nominal northern reference station E26. BACIP analyses also indicate that abundance at near-ZID station E17 is statistically significantly different only when compared to nominal northern reference station B9. This increase in abundance is likely due in large part to organic enrichment at the outfall. During the most recent discharge period (2001-2006), average abundance ranged from 25.5 to 62.5 at station E14, 22 to 45.5 at station E17, and 18.5 to 42.5 at station E11. These impact site values are above the upper bound of the abundance tolerance interval (0-34) calculated for reference conditions identified in the San Diego regional surveys (Table 20), but in the range of average abundance observed during this period at northern reference station B12 (17.5-60) and during the regional surveys (0-93).

The applicant notes that *Euphilomedes* spp. abundances above the upper tolerance bound are frequently observed at other 98 meter stations and suggests this may be due to region-wide influences unrelated to the outfall (Figure E.1-4 in Attachment E.1 of Volume IV, Appendix E, of the application). EPA agrees that while an outfall related pattern appears to occur at near-ZID station E14, cyclical patterns in abundance suggest other factors may be influencing *Euphilomedes* spp. at 98 meter stations beyond the zone of initial dilution.

*Parvilucina tenuisculpta*. A mollusc known to be tolerant of organic enrichment is the bivalve, *Parvilucina tenuisculpta*. It is found in high abundances in areas of moderate organic enrichment.

Figure A-31 summarizes the average abundance of *Parvilucina tenuisculpta* per 0.1 m<sup>2</sup> at each 98 meter station, during July, from 1991 through 2006. At these stations, the discharge period mean is similar to the pre-discharge mean and year-to-year averages at near-ZID station E14 are generally elevated when compared to other 98 meter stations. Mean abundance for all 98 meter stations in July during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) is 3.0 and 3.3, respectively. During these two periods, mean abundance at near-ZID station E14 is 1.0 and 9.8, respectively, while

mean abundance at northern reference station B9 is 3.5 and 4.3, respectively. BACIP analyses in Table 19 indicate that abundance at near-ZID station E14 and nearfield station E11 are statistically significantly different when compared to either northern reference station B9 or nominal northern reference station E26. BACIP analyses also indicate that abundance at near-ZID station E17 is statistically significantly different only when compared to northern reference station B9. This increase in abundance is likely due to organic enrichment around the outfall. During the most recent discharge period (2001-2006), average abundance ranged from 0 to 32 at station E14, 0 to 8.5 at station E17, and 0.5 to 4.5 at station E11. These impact site values are above the upper bound of the abundance tolerance interval (0-12) calculated for reference conditions identified in the San Diego regional surveys (Table 20), indicating that moderate levels of organic enrichment are indeed occurring at near-ZID station E14.

*Capitella "capitata" Species Complex.* A polychaete known to be tolerant of organic enrichment and other disturbances is *Capitella "capitata"*. According to the applicant, background abundances are generally near zero, in the Southern California Bight, but may reach densities of 100 per 0.1 m<sup>2</sup> in areas of excessive organic deposits. Volume IV, Appendix E, of the application.

Figure A-32 summarizes the average abundance of *Capitella "capitata"* per 0.1 m<sup>2</sup> at each 98 meter station, during July, from 1991 through 2006. At these stations, the discharge period mean is higher than the pre-discharge mean and year-to-year averages at near-ZID station E14 are generally much higher when compared to other 98 meter stations. Mean abundance for all 98 meter stations in July during the pre-discharge (1991-1993) and most recent discharge period (2001-2006) is 0.0 and 0.8, respectively. During these two periods, mean abundance at near-ZID station E14 is 0.0 and 7.2, respectively, while mean abundance at northern reference station B9 is 0.0 and 0.1, respectively. This increase in abundance is likely due to organic enrichment around the outfall. BACIP analyses were not conducted because abundances at control sites are generally zero. During the most recent discharge period (2001-2006), average abundance ranged from 0.0 to 17.5 at station E14, 0.0 to 0.5 at station E17, and 0.0 to 4.0 at station E11. The impact site values at station E14 and E11 are well above the upper bound of the abundance tolerance interval (0-2) calculated for reference conditions identified in the San Diego regional surveys (Table 20). This indicates that variable levels of low to moderate organic enrichment are indeed occurring at these two stations. Other indicators of benthic macrofauna community condition do not show a decrease in species richness or a detrimental increase in total abundance of benthic macrofauna taxa dominated by pollution tolerant species.

**Benthic Response Index.** The Benthic Response Index (BRI) is an index developed by the Southern California Coastal Water Research Project as part of the Southern California Bight Pilot Project (Smith et al., 2001). Index values below 25 suggest "reference condition" and those in the range of 25 to 33 represent a "minor deviation from reference condition". A "loss in biodiversity" is set at an index value of 34. Index values greater than 44 indicate a "loss in community function". "Defaunation" is set at an index value of 72. Validation has shown that the BRI is most accurate from water depths of 31 to 200

meters which includes the middle and outer continental shelf (Ranasinghe, 2007) and the water depth of the Point Loma outfall.

Figures E-27 and E-28 in Volume IV, Appendix E, of the application summarize BRI per 0.1 m<sup>2</sup> at the 98 meter stations, from 1991 through 2006. Index values show a distinct outfall-related pattern during the discharge period (1994-2006). During the most recent discharge period (2001-2006), the mean BRI values at near-ZID station E14 are approaching 25, above which a loss in biodiversity is indicated. The mean BRI for all 98 meter stations, in January and July, during the pre-discharge (1991-1993) and most recent discharge period, is 4.2 and 6.2, respectively. During these two periods, the mean BRI at near-ZID station E14 is 4.9 and 13.9, respectively, while the mean BRI at northern reference station B9 is 6.1 and 2.3, respectively. BACIP analyses indicate that the BRI at near-ZID station E14 is statistically significantly different when compared to either northern reference station B9 or nominal northern reference station E26 (Table E-6 in Volume IV, Appendix E, of the application). The impact site mean for the most recent discharge period (13.9) is below the upper bound of the BRI tolerance interval (-0.65-15) calculated for reference conditions identified in the San Diego regional surveys (Table 20) and below the threshold level which indicates minor deviations from reference conditions. Annual BRI values approaching 25 are of concern to EPA because alteration from reference condition, although minor, is predicted at sites above this threshold. Changes in the BRI at station E14, in combination with other benthic macrofauna indicators of community condition, forecast that while anticipated TSS mass emissions over the proposed permit term will comply with CWA section 301(h) and (j)(5) requirements, the applicant needs to develop and implement an integrated long term plan which will reduce the organic loading that has been projected for the PLOO through 2027 (Table II.A-21 in Volume III of the application), so as to maintain long-term compliance with this decision criterion.

In conclusion, there are often statistically significant changes at near-ZID station E14 and sometimes at nearfield stations E17 and E11 in benthic macrofauna indicator parameters evaluated for this review. However, EPA observes that conditions at and beyond the near-ZID station are generally similar to reference conditions identified in the San Diego regional surveys. EPA notes that low numbers of pollution sensitive and pollution tolerant taxa are variably present at the near-ZID station and indicate a moderate level of organic enrichment in this area. Slight reductions in the abundance of *Amphiodia* spp., a pollution sensitive taxon, at nearfield stations indicate that a low level of organic enrichment extends beyond the zone of initial dilution into the nearfield. There appear to be no impacts to benthic macrofauna associated with the accumulation of toxic substances discharged from the outfall. Based on the evidence described in this section, EPA concludes that conditions beyond the zone of initial dilution are not degraded in compliance with the California Ocean Plan and support an ecological community which exhibits characteristics similar to those of nearby, healthy communities existing under comparable but unpolluted environmental conditions.

*c. Demersal Fish*

Chapter II of the California Ocean Plan contains the following water quality objective for biological characteristics of ocean waters: “Marine communities, including vertebrate, invertebrate, and plant species, shall not be degraded.” Demersal (bottom dwelling) fish communities are inherently variable due to their mobility and the influences of natural and anthropogenic factors. Under its existing NPDES permit, the City conducts the required semi-annual monitoring, during January and July, at six stations in trawl zones located at the depth of the outfall along the 98 meter contour. Nearfield stations SD12 and SD10 are within 1.2 kilometers of the outfall. Northern farfield stations SD14 and SD13 are located approximately 8 kilometers north of the outfall and southern farfield stations SD8 and SD7 are located approximately 9 kilometers south of the outfall. Station SD8 is located within a couple of kilometers of EPA-designated dredge materials disposal site LA-5 while station SD7 is located within one kilometer of non-active dredge materials disposal site LA-4.

EPA did not reanalyze the raw data for demersal fish submitted with the application. Rather, to evaluate the condition of demersal fish in the area of the outfall and identify trends, EPA reviewed the applicant’s analyses of monitoring data for pre-discharge (1991-1993) and discharge monitoring surveys (1994-2006), conducted during January and July, along the 98 meter contour (Figure A-33).

Table 21 summarizes two indicator parameters of fish community structure calculated by the applicant. The average number of fish species (species richness) collected per trawl over the 16 year monitoring period ranges from 7 to 26. Over the pre-discharge and discharge periods, the average number of species has increased from 13 to 15 in the nearfield and 14 to 15 in the farfield. Year-to-year fish abundances (total catch) are quite variable and have increased in both the nearfield and farfield, since discharge began. The applicant reports that much of this variability is due to fluctuations in the populations of dominant species (e.g., Pacific sanddab) and sporadically common species (e.g., halfbanded rockfish). Figures E-36 through E-38 in Volume IV, Appendix E, of the application. Values for species richness and total abundance are within the range of natural variability observed for the Southern California Bight regional surveys and suggest no outfall-related trends. Table E-9 in Volume VI, Appendix E, of the application.

Table 21. Applicant’s summary for total number of species and total abundance of demersal fishes at trawl zone stations during the pre-discharge (1991-1993) and discharge (1994-2006) periods. Data are expressed as means with ranges in parentheses.

Indicator Parameter	Pre-discharge Period		Discharge Period	
	Nearfield	Farfield	Nearfield	Farfield
Species Richness	13 (8-19)	14 (9-22)	15 (7-20)	15 (9-26)
Total Abundance	208 (63-399)	214 (51-453)	440 (44-2,322)	310 (50-695)

As shown in Table 22, the applicant reports that, generally, the same fish species are present and abundant during the pre-discharge and discharge periods. These species represent 95% of the total abundance of fishes caught from 1991 through 2006. Overall, the demersal fish assemblage in the area of the outfall is dominated by Pacific sanddab which is common in soft-bottom habitats of the Southern California Bight mainland shelf.

Table 22. Applicant's summary for percent abundance of demersal fish species at all trawl zone stations during pre-discharge (1991-1993) and discharge (1994-2006) periods. Data are expressed as the percent of total abundance per trawl.

Common Name	Pre-discharge Period Percent Abundance	Discharge Period Percent Abundance
Pacific sanddab	55	49
Plainfin midshipman	10	3
Yellowchin sculpin	6	13
Stripetail rockfish	4	3
Dover sole	4	6
Longspine combfish	4	5
Longfin sanddab	3	3
Pink seaperch	3	1
Halfbanded rockfish	2	9
Shortspine combfish	2	1
California tonguefish	1	1

The City's analysis in the application shows that Pacific sanddab comprise a smaller proportion of the nearfield fish assemblage during the discharge period, than prior to the discharge, while the proportion of Pacific sanddab remains similar over time in the farfield. In contrast, yellowchin sculpin comprise a larger proportion of both the nearfield and farfield fish assemblages during the discharge period, than prior to the discharge. Table E-8 and Figure E-38 in Volume IV, Appendix E, of the application. The applicant suggests that these changes may be due, in part, to cyclic population fluctuations and region-wide increases in water temperature observed during El Nino years. Ordination and classification analysis of fish abundance data from 1991 through 2007 seem to confirm that the differences in local fish assemblages over time appear in large part related to region-wide changes in water temperature, even though some cluster groups are in proximity to the two dredge materials disposal sites (Figure 6.4 in City of San Diego, 2008).

The applicant reports that evidence of parasitism or physical abnormalities (fin rot, discoloration, skin lesions, tumors) in fish populations off Point Loma has remained low, since monitoring began in 1991. The copepod eye parasite occurs in Pacific sanddab at a low percentage. An ecoparasitic cymothoid isopod is observed loose in some trawls and is known to be especially common on sanddab in southern California waters.



EPA concludes there are no apparent spatial or temporal trends in the total number of fish species or abundances of fishes that suggest an outfall-related impact.

#### **4. Impact of the Discharge on Recreational Activities**

This section describes the impact of the modified discharge on recreational activities. Under 40 CFR 125.62(d), the applicant's modified discharge must allow for the attainment or maintenance of water quality which allows for recreational activities beyond the zone of initial dilution, including, without limitation, swimming, diving, boating, fishing, and picnicking, and sports activities along shorelines and beaches. The requirement to protect recreational activities applies beyond the zone of initial dilution, in both federal and State waters. Both the bioaccumulation of toxic pollutants in fish tissues (liver or muscle) and water contact recreational activities and compliance with bacteriological water quality standards and criteria are discussed. The applicant's monitoring data are reviewed to assess whether the discharge will protect recreational activities.

##### ***a. Bioaccumulation and Fish Consumption***

Chapter II of the California Ocean Plan contains the following water quality objectives for the biological characteristics of ocean waters: "The natural taste, odor, and color of fish, shellfish, or other marine resources used for human consumption shall not be altered." and "The concentrations of organic materials in fish, shellfish, or other marine resources used for human consumption shall not bioaccumulate to levels that are harmful to human health."

Bioaccumulation is a process by which chemical contaminants undergo uptake and retention in organisms via various pathways of exposure. For example, fishes can accumulate contaminants through adsorption and absorption of dissolved chemicals in the water or through ingestion or assimilation of contaminants in food. Once a contaminant is incorporated into the tissues of an organism, it may resist metabolic excretion and accumulate. Higher trophic level organisms may then feed on contaminated prey and further concentrate the contaminant in their tissues. This process can lead to concentrations of contaminants in fish tissue that are of ecological and human health concern.

Under its existing NPDES permit, the City conducts the required semi-annual monitoring at six stations in four trawl zones during January and July and the required annual monitoring at two rig (hook and line) fishing stations during October. The stations are located at the depth of the outfall along the 98 meter contour. The bioaccumulation monitoring program has two components: (1) liver tissue is analyzed for trawl-caught fish and (2) muscle tissue is analyzed for hook and line-caught fish.

Fish collected in trawls are representative of the general demersal fish community and certain species are targeted for analysis based on their prevalence in the community.

Chemical analysis of liver tissue in these fishes indicates which contaminants may be bioaccumulating through this community. For bioaccumulation analyses, the six trawl fishing stations are grouped into four trawl zones. Trawl zone 1 (TZ1) represents the nearfield and is defined as the area within a 1 kilometer radius of stations SD12 and SD10; both stations are within 1.2 kilometers of the outfall. Trawl zone 2 (TZ2) represents the northern farfield and is defined as the area within a 1 kilometer radius of stations SD14 and SD13; both stations are approximately 8 kilometers north of the outfall. Trawl zone 3 (TZ3) represents the southern farfield and is defined as the area centered within a 1 kilometer radius of station SD8. Station SD8 is located within a couple of kilometers of EPA-designated dredge materials disposal site LA-5. Trawl zone 4 (TZ4) represents the southernmost farfield and is defined as the area centered within a 1 kilometer radius of station SD7. Station SD7 is located within one kilometer of non-active dredge materials disposal site LA-4. Both stations SD8 and SD7 are within approximately 9 kilometers of the outfall.

Fish species collected by rig fishing represent a typical sport fisher's catch and are considered of recreational and commercial importance. Fish muscle tissue is analyzed because it is the tissue most often consumed by humans and may have public health implications. There are two rig fishing locations. Station RF1 is located in the nearfield close to the northern end of the diffuser leg while station RF2 is located in the northern farfield.

The applicant reports all tissue sample values in terms of milligrams per kilogram wet weight (mg/kg ww), or microgram per kilogram wet weight (ug/kg ww).

### **Fish Liver**

To evaluate bioaccumulation in the area of the outfall and identify trends, EPA examined toxics concentrations in the liver tissue of trawl-caught fish species that were sampled in October during the discharge period (1995-2006) (Figure A-33). Table B-7 shows the five flatfish species (bigmouth sole, Dover sole, English sole, hornyhead turbot, longfin sanddab, and Pacific sanddab) examined over this period by EPA. During this period, 18 single parameters were detected in at least 10 percent of the averaged replicate composite samples: aluminum (70 percent), antimony (10 percent), arsenic (82 percent), barium (100 percent), beryllium (15 percent), cadmium (86 percent), chromium (63 percent), copper (100 percent), hexachlorobenzene (55 percent), iron (100 percent), lead (17 percent), manganese (96 percent), mercury (88 percent), nickel (23 percent), selenium (100 percent), silver (36 percent), tin (37 percent), and zinc (100 percent). Total chlordane, total DDT, and total PCBs are also reviewed.

Arsenic. Figure A-34 summarizes the average concentration of arsenic in flatfish livers, during October, from 1995 through 2006. The applicant began using a more sensitive method detection limit in 2003. There is no spatial or temporal pattern in arsenic concentrations in liver that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the mean concentration of arsenic is 3.39 mg/kg ww at

nearfield station TZ1, 6.18 mg/kg ww at northern farfield station TZ2, and 4.03 mg/kg ww and 3.85 mg/kg ww at southern farfield stations TZ3 and TZ4, respectively.

**Mercury.** Figure A-35 summarizes the average concentration of mercury in flatfish livers, during October, from 1995 through 2006. The applicant began using a slightly less sensitive method detection limit (0.012 ug/l changed to 0.03 ug/l) in 2003. There is no spatial or temporal pattern in mercury concentrations in liver that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the mean concentration of mercury is 0.083 mg/kg ww at nearfield station TZ1, 0.047 mg/kg ww at northern farfield station TZ2, and 0.068 mg/kg ww and 0.058 mg/kg ww at southern farfield stations TZ3 and TZ4, respectively.

**Selenium.** Figure A-36 summarizes the average concentration of selenium in flatfish liver, during October, from 1995 through 2006. The applicant began using a more sensitive method detection limit in 2003. There is no spatial or temporal pattern in selenium concentrations in liver that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the mean concentration of selenium is 1.36 mg/kg ww at nearfield station TZ1, 1.47 mg/kg ww at northern farfield station TZ2, and 1.09 mg/kg ww and 1.25 mg/kg ww at southern farfield stations TZ3 and TZ4, respectively.

**Hexachlorobenzene.** Figure A-37 summarizes the average concentration of hexachlorobenzene in flatfish livers, during October, from 1995 through 2006. There is no spatial or temporal pattern in hexachlorobenzene concentrations in liver that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the mean concentration of hexachlorobenzene is 3.25 ug/kg ww at nearfield station TZ1, 4.19 ug/kg ww at northern farfield station TZ2, and 5.09 ug/kg ww and 3.83 ug/kg ww at southern farfield stations TZ3 and TZ4, respectively.

**Total Chlordane.** Figure A-38 summarizes the average concentration of total chlordane in flatfish livers, during October, from 1995 through 2006. There is no spatial or temporal pattern in total chlordane concentrations in liver that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the mean concentration of total chlordane is 14.10 ug/kg ww at nearfield station TZ1, 15.42 ug/kg ww at northern farfield station TZ2, and 18.27 ug/kg ww and 13.29 ug/kg ww at southern farfield stations TZ3 and TZ4, respectively.

**Total DDT.** Figure A-39 summarizes the average concentration of total DDT in flatfish livers, during October, from 1995 through 2006. There is no spatial or temporal pattern in total DDT concentrations in liver that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the mean concentration of total DDT is 424 ug/kg ww at nearfield station TZ1, 516 ug/kg ww at northern farfield station TZ2, and 611 ug/kg ww and 558 ug/kg ww at southern farfield stations TZ3 and TZ4, respectively. During the period 1995 through 2006, total TTD concentrations in flatfish livers at all trawl zone stations appear to be decreasing over time.

Total PCBs. Figure A-40 summarizes the average concentration of total PCBs in flatfish livers, during October, from 1995 through 2006. There is no spatial or temporal pattern in total PCB concentrations in liver that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the mean concentration of total PCBs is 263.9 ug/kg ww at nearfield station TZ1, 340.0 ug/kg ww at northern farfield station TZ2, and 742.2 ug/kg ww and 335.2 ug/kg ww at southern farfield stations TZ3 and TZ4, respectively.

EPA notes that on average, total PCB concentrations in sanddab livers are an order of magnitude higher than in other flatfish species analyzed by the applicant (Table F-26 in Volume IV, Appendix E, of the application). During the period 1995 through 2006, total PCB concentrations in flatfish livers at southern farfield station TZ3 (near the active dredge materials disposal site, LA-5) are noticeably higher than at other trawl zone stations during most years, but appear to be decreasing over time.

Because there are no noticeable effects of the outfall for these chemicals, the contributions of the discharge are minimal.

### **Fish Muscle**

To evaluate bioaccumulation in the area of the outfall and identify trends, EPA examined toxics concentrations in the muscle tissue of rig-caught fish species that were sampled in October during the discharge period (1995-2006) (Figure A-33). Table B-8 shows the twelve fish species (rockfish and scorpionfish) examined over this period by EPA. During this period, 18 single parameters were detected in at least one percent of the averaged replicate composite samples: aluminum (46 percent), antimony (86 percent), arsenic (70 percent), barium (92 percent), cadmium (9 percent), chromium (41 percent), copper (61 percent), hexachlorobenzene (47 percent), iron (87 percent), lead (4 percent), manganese (39 percent), mercury (94 percent), nickel (9 percent), selenium (99 percent), silver (1 percent), thallium (9 percent), tin (21 percent), and zinc (100 percent). Total chlordane, total DDT, and total PCBs are also reviewed. To address public health concerns, pollutant concentrations for these detections were compared to available U.S. EPA recommended screening values for recreational fishers and California Office of Health Hazard Assessment fish contaminant goals for sport fish.

U.S. EPA has developed recommended target analyte screening values for recreational fishers (USEPA, 2000). These screening values are defined as concentrations of analytes in fish or shellfish tissue that are of potential public health concern and are used as threshold values against which levels of contamination in similar tissues collected from the ambient environment can be compared (Table 23). Exceedance of these screening values should be taken as an indication that more intensive site-specific monitoring and/or evaluation of human health risk should be conducted.

Table 23. Selected U.S. EPA recommended target analyte screening values for recreational fishers. Based on fish consumption rate of 17.5 grams per day, 70 kilograms body weight (all adults), and, for carcinogens,  $10^{-5}$  risk level, and 70-year lifetime.

Target Analyte	Screening Values (mg/kg)	
	Noncarcinogens	Carcinogens (RL= $10^{-5}$ )
Arsenic (inorganic)	1.2	0.026
Cadmium	4.0	---
Mercury (methylmercury)	0.3 <sup>1</sup>	---
Selenium	20	---
Tributlytin	1.2	---
Total chlordane (sum of cis- and trans-chlordane, cis- and trans-nonachlor; and oxychlordane)	2.0	0.114
Total DDT (sum of 4,4'- and 2,4'- isomers of DDT, DDE, and DDD)	2.0	0.117
Hexachlorobenzene	3.2	0.0250
Total PCBs (sum of congeners or Aroclors)	0.08	0.02

<sup>1</sup> Based on EPA's tissue-based 304(a)(1) water quality criterion for human health (USEPA, 2001).

The California Office of Environmental Health Hazard Assessment (OEHHA) is the agency solely responsible for evaluating the potential public health risks of chemical contaminants in sport fish and issuing State advisories, when appropriate. EPA is unaware of any sport fish advisories in the area off Point Loma issued by OEHA. OEHA has developed both advisory tissue levels and fish contaminant goals for seven common contaminants in California sport fish (Klasing and Brodberg, 2008). Fish contaminant goals are estimates of contaminant levels in fish that pose no significant health risk to individuals consuming sport fish as a standard consumption rate of eight ounces per week (32 grams per day), prior to cooking, over a lifetime (Table 24). Unlike advisory tissue levels, these goals are based solely on public health considerations relating to exposure to each individual contaminant, without regard to economic considerations, technical feasibility, or the counterbalancing effects of fish consumption.

Table 24. Selected Fish Contaminant Goals for selected fish contaminants based on cancer and non-cancer risk using an 8 ounce per week (prior to cooking) consumption rate (32 grams per day).

Contaminant	Fish Contaminant Goal (ug/kg, wet weight)
Chlordane [(mg/kg/day) <sup>-1</sup> ]	5.6
DDTs [(mg/kg/day) <sup>-1</sup> ]	21
Methylmercury (mg/kg-day)	220
PCBs [(mg/kg/day) <sup>-1</sup> ]	3.6
Selenium (mg/kg-day)	7,400

Arsenic. Figure A-41 summarizes the average concentration of arsenic in rockfish and scorpionfish muscle, during October, from 1995 through 2006. There is no spatial or temporal pattern in arsenic concentrations in muscle that suggests an outfall-related effect. The applicant began using a more sensitive method detection limit in 2003. During the most recent discharge period (2001-2006), the annual average concentration of arsenic ranged from 0.55 to 2.65 mg/kg ww at nearfield station RF1 (total n=18) and 0.59 to 4.13 mg/kg ww at farfield station RF2 (total n=16). These concentrations are above the EPA screening values of 1.2 and 0.026 mg/kg. There is no OEHHA fish contaminant goal for arsenic.

Mearns et al. (1991) reported that in the Southern California Bight, arsenic occurs in the edible tissues of fish, squid, lobster, and crab and the liver of some fish in concentrations ranging from about 0.1 to over 50 mg/kg ww and tissue concentrations were the same or higher in remote areas compared to urban areas. The authors concluded that the source of arsenic to these organisms is probably "natural", due to hydrothermal springs, and further research was necessary to assess health risks to humans that consume seafood at such levels.

From 2002 through 2006, arsenic concentrations in the Point Loma WTP effluent generally range between 0.4 and 2.7 ug/l; these concentrations will meet EPA's 304(a)(1) water quality criterion for human health, 0.14 ug/l, at the boundary of the zone of initial dilution.

Because there is no noticeable effect of the outfall, the contribution of the discharge is minimal.

Cadmium. Figure A-42 summarizes the average concentration of cadmium in rockfish and scorpionfish muscle, during October, from 1995 through 2006. The applicant began using a more sensitive method detection limit in 2003; however, cadmium was not detected in fish muscle until 2006. During the most recent discharge period (2001-2006), the annual average concentration of cadmium ranged from 0.00 to 0.16 mg/kg ww at nearfield station RF1 (total n=18) and 0.00 to 0.15 mg/kg ww at farfield station RF2 (total n=16). These concentrations are below the EPA screening value of 4.0 mg/kg. There is no OEHHA fish contaminant goal for cadmium.

Chromium. Figure A-43 summarizes the average concentration of chromium in rockfish and scorpionfish muscle, during October, from 1995 through 2006. The applicant began using a more sensitive method detection limit in 2003. There is no spatial or temporal pattern in chromium concentrations in muscle that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the annual average concentration of chromium ranged from 0.00 to 0.44 mg/kg ww at nearfield station RF1 (total n=18) and 0.00 to 0.39 mg/kg ww at farfield station RF2 (total n=16). There is no EPA screening value or OEHHA fish contaminant goal for chromium.

Copper. Figure A-44 summarizes the average concentration of copper in rockfish and scorpionfish muscle, during October, from 1995 through 2006. The applicant began using

a more sensitive method detection limit in 2003. There is no spatial or temporal pattern in copper concentrations in muscle that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the annual average concentration of copper ranged from 0.15 to 3.58 mg/kg ww at nearfield station RF1 (total n=18) and 0.19 to 2.94 mg/kg ww at farfield station RF2 (total n=16). There is no EPA screening value or OEHHA fish contaminant goal for copper.

**Lead.** Figure A-45 summarizes the average concentration of lead in rockfish and scorpionfish muscle, during October, from 1995 through 2006. The applicant began using a more sensitive method detection limit in 2003; however, lead was only detected in fish muscle in 2005. During the most recent discharge period (2001-2006), the annual average concentration of lead ranged from 0.00 to 0.00 mg/kg ww at nearfield station RF1 (total n=18) and 0.00 to 0.36 mg/kg ww at farfield station RF2 (total n=16). There is no EPA screening value or OEHHA fish contaminant goal for lead.

**Mercury.** Because analysis of total mercury is less expensive than that for methylmercury, total mercury is analyzed and assumed to be 100 percent methylmercury for the purpose of risk assessment. Figure A-46 summarizes the average concentration of mercury in rockfish and scorpionfish muscle, during October, from 1995 through 2006. The applicant began using a slightly less sensitive method detection limit (0.012 ug/l changed to 0.03 ug/l) in 2003. There is no spatial or temporal pattern in mercury concentrations in muscle that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the annual average concentration of mercury ranged from 0.09 to 0.59 mg/kg ww at nearfield station RF1 (total n=18) and 0.09 to 0.37 mg/kg ww at farfield station RF2 (total n=16). In some years, average concentrations are above the EPA screening value of 0.3 mg/kg and the OEHHA fish contaminant goal of 0.220 mg/kg ww for methylmercury. Average concentrations are sometimes above OEHHA advisory tissue levels based on non-cancer risk using an 8 ounce serving size (prior to cooking) once or more per week (Klasing and Brodberg, 2008).

Mearns et al. (1991) has identified mercury as a contaminant of concern in the Southern California Bight, but concludes that since the highest levels of mercury are seen in fish from areas located far from known sources, it does not appear that mercury from coastal waste discharges is responsible for the concentrations observed in fish.

Because there is no noticeable effect of the outfall, the contribution of the discharge is minimal.

From 2002 through 2006, mercury concentrations in the Point Loma WTP effluent generally are reported as "not detected" (217 of 228 samples) where the method detection limit ranges from 0.27 ug/l in 2002, to 0.09 ug/l in 2006. These method detection limits are low enough to evaluate the applicant's ability to achieve compliance, following initial dilution, with California Ocean Plan Table B water quality objectives for mercury. However, EPA concludes that these method detection limits are not as sensitive as required by 40 CFR 136 or as needed to further quantify actual mass emissions of mercury from the PLOO to the region. Consequently, the draft permit proposes that the

applicant monitor the effluent using EPA method 1631 which has a required minimum quantitation level of 0.0005 ug/l.

**Nickel.** Figure A-47 summarizes the average concentration of nickel in rockfish and scorpionfish muscle, during October, from 1995 through 2006. The applicant began using a more sensitive method detection limit in 2003; however, nickel was not detected in fish muscle until 2006. During the most recent discharge period (2001-2006), the annual average concentration of nickel ranged from 0.00 to 0.23 mg/kg ww at nearfield station RF1 (total n=18) and 0.00 to 0.15 mg/kg ww at farfield station RF2 (total n=16). There is no EPA screening value or OEHHA fish contaminant goal for nickel.

**Selenium.** Figure A-48 summarizes the average concentration of selenium in rockfish and scorpionfish muscle, during October, from 1995 through 2006. The applicant began using a more sensitive method detection limit in 2003. There is no spatial or temporal pattern in selenium concentrations in muscle that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the annual average concentration of selenium ranged from 0.37 to 0.48 mg/kg ww at nearfield station RF1 (total n=18) and 0.30 to 0.44 mg/kg ww at farfield station RF2 (total n=16). Annual average concentrations are below the EPA screening value of 20 mg/kg and the OEHHA fish contaminant goal of 7.4 mg/kg ww.

**Silver.** Figure A-49 summarizes the average concentration of silver in rockfish and scorpionfish muscle, during October, from 1995 through 2006. The applicant began using a more sensitive method detection limit in 2003; however, silver was only detected in fish muscle in 2005. There is no spatial or temporal pattern in silver concentrations in muscle that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the annual average concentration of silver ranged from 0.00 to 0.00 mg/kg ww at nearfield station RF1 (total n=18) and 0.00 to 0.17 mg/kg ww at farfield station RF2 (total n=16). There is no EPA screening value or OEHHA fish contaminant goal for silver.

**Tin.** Figure A-50 summarizes the average concentration of total tin in rockfish and scorpionfish muscle, during October, from 1995 through 2006. The applicant began using a more sensitive method detection limit in 2003. There is no spatial or temporal pattern in tin concentrations in muscle that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the annual average concentration of tin ranged from 0.00 to 1.71 mg/kg ww at nearfield station RF1 (total n=18) and 0.00 to 1.65 mg/kg ww at farfield station RF2 (total n=16). Mearns et al (1991) reports that from 3 to 52 percent of the total tin in fish is in the form of organic tin. Based on this ratio, it is likely that the annual average concentrations are below the EPA screening value of 1.2 mg/kg for the organic tin, tributyltin.

From 2002 through 2006, tributyltin concentrations in the Point Loma WTP effluent are reported as "not detected" (60 of 60 samples) where the method detection limit ranges from 0.005 ug/l in 2002, to 2 ug/l in 2006.



Zinc. Figure A-51 summarizes the average concentration of zinc in rockfish and scorpionfish muscle, during October, from 1995 through 2006. The applicant began using a more sensitive method detection limit in 2003. There is no spatial or temporal pattern in zinc concentrations in muscle that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the annual average concentration of zinc ranged from 3.04 to 5.24 mg/kg ww at nearfield station RF1 (total n=18) and 1.96 to 4.22 mg/kg ww at farfield station RF2 (total n=16). There is no EPA screening value or OEHHA fish contaminant goal for zinc.

Hexachlorobenzene. Figure A-52 summarizes the average concentration of hexachlorobenzene in rockfish and scorpionfish muscle, during October, from 1995 through 2006. The applicant began using a more sensitive method detection limit in 2003. There is no spatial or temporal pattern in hexachlorobenzene concentrations in muscle that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the annual average concentration of hexachlorobenzene ranged from 0.10 to 0.58 ug/kg ww at nearfield station RF1 (total n=18) and 0.10 to 0.35 ug/kg ww at farfield station RF2 (total n=16). These concentrations are below the EPA screening values of 3,200 and 25.0 ug/kg. There is no OEHHA fish contaminant goal for hexachlorobenzene.

Total Chlordane. Figure A-53 summarizes the average concentration of total chlordane in rockfish and scorpionfish muscle, during October, from 1995 through 2006. There is no spatial or temporal pattern in total chlordane concentrations in muscle that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the annual average concentration of total chlordane ranged from 0.00 to 1.13 ug/kg ww at nearfield station RF1 (total n=18) and 0.00 to 2.40 ug/kg ww at farfield station RF2 (total n=16). These concentrations are below the EPA screening values of 2,000 and 114 ug/kg ww and the OEHHA fish contaminant goal of 5.6 ug/kg ww.

Total DDT. Figure A-54 summarizes the average concentration of total DDT in rockfish and scorpionfish muscle, during October, from 1995 through 2006. There is no spatial or temporal pattern in total DDT concentrations in muscle that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the annual average concentration of total DDT ranged from 5.00 to 78.8 ug/kg ww at nearfield station RF1 (total n=18) and 9.73 to 77.70 ug/kg ww at farfield station RF2 (total n=16). These concentrations are below the EPA screening values of 2,000 and 117 ug/kg ww, but often above the OEHHA fish contaminant goal of 21 ug/kg ww. These values are below all OEHHA advisory tissue levels based on non-cancer risk using an 8 ounce serving size (prior to cooking) once or more per week (Klasing and Brodberg, 2008).

From 2002 through 2006, total DDT concentrations in the Point Loma WTP effluent generally are reported as "not detected" (228 of 228 samples), although the metabolite homologue, p,p'-DDD, was reported as 0.020 ug/l in one sample. The method detection limits for the homologues of DDT and its metabolites range from 0.020 to 0.1 ug/l. EPA's recommended minimum quantitation levels for the homologues of DDT and its metabolites are 0.1 ug/l using EPA method 608; Appendix II of the California Ocean Plan requires dischargers to achieve more stringent minimum levels.

Because there is no noticeable effect of the outfall, the contribution of the discharge is minimal.

**Total PCBs.** Figure A-55 summarizes the average concentration of total PCBs in rockfish and scorpionfish muscle, during October, from 1995 through 2006. There is no spatial or temporal pattern in total PCB concentrations in muscle that suggests an outfall-related effect. During the most recent discharge period (2001-2006), the annual average concentration of total PCBs ranged from 1.50 to 31.67 ug/kg ww at nearfield station RF1 (total n=18) and 3.00 to 37.25 ug/kg ww at farfield station RF2 (total n=16). These concentrations are generally below the EPA screening values of 80. and 20. ug/kg ww, but often above the OEHHA fish contaminant goal of 3.6 ug/kg ww. These values are usually below OEHHA advisory tissue levels based on non-cancer risk using an 8 ounce serving size (prior to cooking) once or more per week (Klasing and Brodberg, 2008).

From 2002 through 2006, total PCB concentrations in the Point Loma WTP effluent are reported as "not detected" (228 of 228 samples) where the method detection limit ranges from 2 to 4 ug/l, based on the measured Arochlor. EPA concludes that these method detection limits need to be lowered in order to achieve 40 CFR 136 levels and to further quantify actual mass emissions of PCBs from the PLOO to the region. However, neither the applicant's nor EPA's method detection limits are low enough to evaluate the applicant's ability to achieve compliance, following initial dilution, with California Ocean Plan Table B water quality objectives for total PCBs.

Because there is no noticeable effect of the outfall, the contribution of the discharge is minimal.

Based on this review of fish liver and muscle tissues, EPA finds that the improved modified discharge will comply with California Ocean Plan water quality objectives for biological characteristics of ocean waters. EPA concludes that the improved modified discharge will allow for the attainment or maintenance of water quality which allows for recreational activities (fishing) beyond the zone of initial dilution.

#### ***b. Water Contact Recreation***

Under 40 CFR 125.62(d), the applicant's modified discharge must allow for the attainment or maintenance of water quality which allows for recreational activities beyond the zone of initial dilution. The requirement to protect recreational activities applies beyond the zone of initial dilution, in both federal and State waters. This section of the TDD discusses the EPA-approved water quality standards that apply in State waters and the recreational activities and 304(a)(1) water quality criteria that apply in federal waters beyond the zone of initial dilution. The applicant's monitoring and laboratory data are reviewed to assess whether the improved modified discharge will protect recreational activities.

## State Waters

Within State waters off Point Loma, most water contact recreational activities are centered around the Point Loma kelp beds and in nearshore waters. The shoreline along the southern portion of Point Loma is predominantly on a military reservation (Fort Rosecrans) and the extreme southern portion of the peninsula is within the Cabrillo National Monument. Shoreline access in these areas is limited to designated tidepool areas within the boundaries of the national monument.

The State Water Resources Control Board (State Water Board) has established bacteriological standards in ocean waters of the State used for water contact recreation. Ocean waters are the territorial marine waters of the State as defined by California law. The outer limit of territorial seas generally extends offshore to 3 nautical miles. "Water Contact Recreation" or "REC-1" is a beneficial use of the State and is defined to include uses of water for recreational activities involving body contact with water where ingestion of water is reasonably possible; these uses include, but are not limited to, swimming, wading, water-skiing, skin and SCUBA diving, surfing, white water activities, fishing, and use of natural hot springs. "REC-1" is designated as an existing beneficial use of coastal waters named the Pacific Ocean, in the California Ocean Plan and Regional Water Quality Control Plan for the San Diego Region (San Diego RWQCB, 1994).

CWA sections 303(i) and 502(21), together require the adoption of water quality criteria for all coastal waters designated by States for use for swimming, bathing, surfing, or similar water contact activities, even if, as a factual matter, the waters designated for swimming are not frequently or typically used for swimming (69 Fed. Reg. 67219-20, 67222, November 16, 2004). Consistent with this requirement, on November 16, 2004, EPA promulgated recreational water quality criteria for coastal waters in cases where States had failed to do so; these criteria apply where States have designated coastal waters for water contact recreation, but do not have in place EPA-approved bacteria criteria that are as protective as EPA's 1986 recommended 304(a)(1) criteria for bacteria (69 Fed. Reg. 67218, November 16, 2004). This promulgation applies the criteria at 40 CFR 131.41(c)(2) to waters designated marine coastal recreational waters in California, excluding the Los Angeles Regional Water Quality Control Board (69 Fed. Reg. 67243, November 16, 2004). In 2005, the State Water Board adopted revised bacteria criteria for ocean waters of the State. Effective February 14, 2006, the revised California Ocean Plan specifies that within the zone bounded by the shoreline and 1,000 feet from the shoreline or the 30-foot depth contour (whichever is further) and in areas outside this zone used for water contact sports as determined by the Regional Water Board (i.e., waters designated as REC-1), including kelp beds, the bacterial objectives in Table 25 shall be maintained throughout the water column. The State has excluded the initial dilution zone for wastewater outfalls.

Table 25. Bacterial water quality objectives in the California Ocean Plan for State waters designated REC-1.

Indicator	30-day Geometric Mean (per 100 ml)	Single Sample Maximum (per 100 ml)
Total coliform	1,000	10,000
Fecal coliform	200	400
Total coliform when fecal coliform:total coliform ratio > 0.1		1,000
Enterococcus	35	104

### Federal Waters

EPA has developed 304(a)(1) ambient water quality criteria for bacteria which are recommended to protect people from gastrointestinal illness for primary contact recreation, or similar full body contact activities, in marine recreational waters (*Ambient Water Quality Criteria for Bacteria—1986*, EPA 440/5-84-002, 1986), but EPA has not directly promulgated water quality standards for marine recreational activities in federal waters located offshore beyond 3 nautical miles. For these waters, the water use is defined by the CWA section 101(a)(2) interim goal to provide water quality for recreation in and on the water, wherever attainable. EPA describes the “primary contact recreation” use as protective when the potential for ingestion of, or immersion in, water is likely. Activities usually include swimming, water-skiing, skin-diving, surfing, and other activities likely to result in immersion (*Water Quality Standards Handbook*, EPA-823-B-94-005a, 1994). Therefore, EPA has reviewed the actual uses of federal waters surrounding the Point Loma Ocean Outfall to determine where such activities occur. Where such uses occur, they are protected by EPA’s water quality criteria for bacteria in Table 26.

Table 26. 304(a)(1) ambient water quality criteria for bacteria in federal waters where primary contact recreation occurs.

Indicator	30-day Geometric Mean (per 100 ml)	Single Sample Maximum (per 100 ml)
Enterococci	35	104 for designated bathing beach
		158 for moderate use
		276 for light use
		501 for infrequent use

Volume V, Appendix G, of the application describes water contact recreational activities occurring in ocean waters off Point Loma and at shoreline, kelp bed, and offshore water quality monitoring stations. In Appendix G, Table 19 shows where water contact recreation takes place off Point Loma, based on the City’s recreational use assessment and record of visual observations during monitoring events. In the vicinity of the Point Loma discharge, the applicant has documented no federally-defined primary contact recreational activities occurring in waters beyond 3 nautical miles; therefore, EPA has

determined that federal waters beyond the zone of initial dilution are not currently required to achieve the 304(a)(1) water quality criteria for bacteria. However, within 3 nautical miles of the shoreline, the applicant's improved modified discharge must achieve California Ocean Plan bacteriological standards for water contact recreation throughout the water column.

### **Data Assessment**

Under its existing NPDES permit, the City conducts the required monitoring for bacteria indicators (enterococcus, fecal coliforms, and total coliforms) at 52 stations shown in Figure A-3. Quarterly monitoring is conducted at a grid of 33 offshore stations located along the 98, 80, and 60 meter contours (at depths of 1, 25, 60, 80 and 98 meters below the surface); and at 3 offshore stations located along the 18 meter contour (at depths of 1, 12 and 18 meters). Five times per month, monitoring is conducted at 5 kelp bed stations located along the 18 meter contour (at depths of 1, 12 and 18 meters) and at 3 kelp bed stations located along the 9 meter (30 foot) contour (at depths of 1, 3 and 9 meters). Weekly monitoring is conducted at 8 shoreline stations. EPA evaluated the applicant's monitoring results from June 2003 through July 2007 for shoreline and kelp bed stations, and from October 2003 through July 2007 for offshore stations.

The water depth at the outer edge of the kelp bed lying inshore from the Point Loma outfall is about 16 to 17 meters and the water depth at the outer edge of the San Diego bight (along an extension of the Point Loma coastline) is about 40 to 45 meters. Based on dilution modeling for the wastewater plume using time series data, the height-of-rise to the average level of minimum dilution varies from about 20 to 31 meters above the bottom, corresponding to water depths of 62 to 74 meters. The height-of-rise to the average top of the wastefield varies from about 30 to 40 meters above the bottom, corresponding to water depths of about 54 to 64 meters. The maximum height-of-rise to the top of the wastefield during a month varies from about 50 to 64 meters above the bottom, corresponding to depths of about 30 to 44 meters. Figure O-16 in Volume VIII, Appendix O, of the application.

As shown in Table B-9, single sample maximum bacterial objectives at shoreline stations exhibit low exceedance rates (less than 4 percent). As shown in Tables B-10, geometric mean bacterial objectives at shoreline stations exhibit low exceedance rates (less than 2 percent). The applicant attributes these exceedances to surface runoff rather than the outfall plume. EPA agrees with this conclusion because of the lack of elevated concentrations at stations in the kelp bed and because modeling and monitoring results indicate that the outfall plume remains submerged in the offshore zone.

As shown in Tables B-11 through B-14, single sample maximum bacterial objectives at kelp bed stations exhibit very low exceedance rates at all depths (less than 1 percent). As shown in Tables B-15 through B-17, geometric mean bacterial objectives at kelp bed stations exhibit low exceedance rates at all depths (less than 1 percent). Exceedances are more likely observed at or within 3 meters of the surface rather than at the bottom, or at outer kelp bed station mid-depths. The applicant attributes most of these exceedances to

storm events, rather than the outfall plume. EPA agrees with this conclusion because modeling and monitoring results indicate that the outfall plume remains submerged in the offshore zone, generally at water depths greater than 20 meters.

The 4.5 mile long PLOO discharges beyond the 3 nautical mile outer limit of the territorial seas. In Volume IV, Appendix C, of the application, Table C-5 summarizes bacteriological data from offshore stations within State waters that are not located in the Point Loma kelp bed. As summarized by the applicant, these offshore stations (at all water depths) achieved compliance with recreational water contact standards from 92 to 98 percent of the time, with exceedances typically limited to samples collected from water depths below 40 meters.

EPA also evaluated the raw data for bacteria indicators submitted with the application. As shown in Tables B-18 through B-21, single sample maximum bacterial objectives at offshore stations within State waters exhibit a low summary exceedance rate (less than 6 percent). At the subset of offshore stations in State waters located along the 80 and 60 meter contours, exceedances are limited to water depths below 25 meters, except at stations F18 and F09 where exceedance rates from the surface to water depths of 25 meters are less than 7 percent. As shown in Tables B-22 through B-24, geometric mean bacterial objectives at offshore stations within State waters exhibit a summary exceedance rate of less than 10 percent. At the subset of offshore stations in State waters located along the 80 and 60 meter contours, exceedances are limited to water depths below 25 meters, except at stations F18, F12, F10, F09, and F06 where exceedance rates from the surface to water depths of 25 meters are generally less than 8 percent.

Both the applicant and EPA compared maximum receiving water bacteriological concentrations from these offshore stations (at depth) with California Ocean Plan water quality objectives to determine the degree of reduction in indicator organisms discharged through the PLOO that is needed to achieve 100 percent compliance with California Ocean Plan water contact standards at all offshore station locations and depths within 3 nautical miles (Tables B-25 through B-27). Based on an evaluation of this data (Table C-6 in Volume IV, Appendix C, of the application), the City concluded that a 2.1-logarithm (approximately 99 percent) reduction of total coliform indicator organisms would ensure that the Point Loma discharge complies with bacteriological water quality standards at all locations and depths within State waters. Based on review and analysis of all offshore station data provided by the applicant, EPA believes the applicant's conclusion is conservative and, therefore provides reasonable assurance of compliance with these standards.

Initial bench-scale laboratory tests, conducted by the applicant, show that a 2.1-log reduction of indicator organisms in the Point Loma effluent can be achieved by a sodium hypochlorite dose rate of 7 mg/l. Other studies show that this dose rate will be consumed in the PLOO and will not lead to non-compliance with Table B water quality objectives in the California Ocean Plan (e.g., total chlorine residual, chloroform, chloromethane, dichloromethane, chlorodibromomethane, dichlorobromomethane, chlorinated phenolic

compounds, toxicity, etc.). Facilities currently exist at the Point Loma WTP site for storing and handling sodium hypochlorite. Volume IV, Appendix D, of the application.

The 2007 application is based on an improved discharge, as defined at 40 CFR 125.58(i), and incorporates effluent disinfection to achieve these California Ocean Plan standards in State waters prior to permit reissuance. On November 13, 2007, the City submitted a request to the Regional Water Board to initiate operation of prototype effluent disinfection facilities to achieve compliance with bacteriological water quality standards in State waters. On August 13, 2008, the Regional Water Board approved modifications associated with operation of the City's proposed prototype effluent disinfection facilities at Point Loma WTP. The City began adding sodium hypochlorite to the effluent discharge on September 3, 2008.

Based on this review, EPA finds that the improved modified discharge will meet bacterial water quality standards in State waters. EPA also finds that federal waters are not required to achieve the 304(a)(1) water quality criteria for bacteria because federally-defined primary contact recreational activities are not occurring in waters beyond 3 nautical miles. The reissued permit will require the City to record and report any primary contact recreational activities observed in federal waters, during offshore water quality monitoring surveys. The Regional Water Board and EPA conduct routine reviews of the City's discharge monitoring reports to assess compliance with the existing permit and water quality standards. EPA concludes that the improved modified discharge will allow for the attainment or maintenance of water quality which allows for recreational activities beyond the zone of initial dilution, including, without limitation, swimming, diving, picnicking, and sports activities along shorelines and beaches.

#### **5. Additional Requirements for Improved Discharge**

Under 40 CFR 125.62(e), an application for a 301(h)-modified permit on the basis of an improved discharge must include a demonstration that such improvements have been thoroughly planned and studied and can be completed or implemented expeditiously; detailed analyses projecting changes in average flow rates and composition of the discharge which are expected to result from proposed improvements; an assessment of the current discharge required by 40 CFR 125.62(a) through (d); and a detailed analysis of how the planned improvements will comply with 40 CFR 125.62(a) through (d).

Under Part A.11 of EPA Form 3510-A2, Description of Treatment, the applicant states that effluent disinfection is being implemented and will be operational prior to renewal of the NPDES permit. The applicant also states that dechlorination is not necessary, as chlorine residual is consumed during outfall transport. Under Part B.5 of EPA Form 3510-A2, the applicant explains that chlorination is being implemented to ensure compliance with California Ocean Plan recreational body-contact standards throughout the water column in State-regulated waters.

Volume IV (Appendices A, C, and D) and Volume VIII (Appendix U) of the application describe the City's proposal for an improved discharge. The City is proposing to

implement effluent disinfection at the Point Loma WTP to achieve a 2.1 log reduction of indicator organisms in the effluent and has developed a prototype disinfection plan, as documented in Appendix D. A 7 mg/l dose rate of 12 percent sodium hypochlorite solution will be applied in the effluent channel and the outfall transport time will provide the contact time needed to achieve a 2.1 log reduction and zero chlorine residual as the effluent enters the outfall diffuser. There is a travel time of about five minutes between the feed point and the effluent sample point, to evaluate effluent compliance with NPDES permit requirements. Initial studies conducted by the applicant show that levels of chlorination byproducts and whole effluent toxicity will meet California Ocean Plan requirements. Figure A-14 in Volume IV, Appendix A, of the application presents the layout of the prototype effluent disinfection facility which has already been designed and installed. On August 13, 2008, the City received Regional Water Board approval to initiate operation of the prototype facility. The applicant states that during operation of the prototype facility, dosage rates will be confirmed and special effluent and ocean samples will be analyzed to demonstrate compliance. The results of full scale testing of the prototype facility will be used by the applicant to implement more permanent facilities. If prototype testing is adequate, the applicant states that an operational system (although not perhaps the permanent design) will be in place to provide continuous effluent disinfection during the term of the renewed permit. The City may propose to the Regional Water Board and EPA modification of the prototype facility or operations in accordance with the results of future studies.

Based on preliminary information provided in the updated application, EPA concludes that the applicable requirements under 40 CFR 125.62(e) have been met.

#### **D. Establishment of a Monitoring Program**

Under 40 CFR 125.63 which implements CWA section 301(h)(3), the applicant must have a monitoring program that is designed to provide data to evaluate the impact of the modified discharge on the marine biota; demonstrate compliance with applicable water quality standards or criteria, as applicable; measure toxic substances in the discharge; and have the capability to implement these programs upon issuance of the 301(h)-modified permit. The frequency and extent of the monitoring program are to be determined by taking into consideration the applicant's rate of discharge, quantities of toxic pollutants discharged, and potentially significant impacts on receiving water, marine biota, and designated water uses.

The applicant has a well-established monitoring program. The existing monitoring program was developed jointly by the Regional Water Board, EPA, and the applicant. The program is described in Volume V, Appendix I, of the application. The City has consistently implemented the agreed upon program.

The applicant has proposed no changes to its existing monitoring program. EPA and the Regional Water Board will review the applicant's existing monitoring program and revise it, as appropriate. These revisions will be included in the 301(h)-modified permit, as conditions for monitoring the impact of the discharge. EPA finds that the applicant has



proposed a monitoring program which meets CWA section 301(h) requirements and has the resources to implement the program.

#### **E. Impact of Modified Discharge on Other Point and Non-Point Sources**

Under 40 CFR 125.64 which implements CWA section 301(h)(4), the applicant's proposed modified discharge must not result in the imposition of additional treatment requirements on any other point or non-point sources. For previous applications, the Regional Water Board has determined that the Point Loma discharge will not have an effect on any other point or non-point source discharges. There are a number of point and non-point source discharges within the San Diego Region; however, the PLOO is the only deep water discharge in the San Diego Region. All other San Diego Region discharges are to depths of 36 meters or less. The nearest discharge to the PLOO is the South Bay Ocean Outfall located approximately 18 kilometers southwest of the PLOO at a depth of 28 meters. For the 2007 application, the City has submitted a letter to Regional Water Board requesting the required determination. The granting of the 301(h) variance by EPA's Regional Administrator is contingent upon a determination by the Regional Water Board that the proposed discharge will not result in any additional treatment requirements on any other point or nonpoint sources.

#### **F. Toxics Control Program**

In accordance with 40 CFR 125.66, the applicant must design a toxics control program to identify and ensure control of toxic pollutants and pesticides discharged in the effluent. The applicant's Industrial Wastewater Control Program (for industrial toxics control) and the Household Hazardous Waste Program (for nonindustrial toxics control) are described, below.

##### **1. Chemical Analysis**

Under 40 CFR 125.66(a)(1), the applicant is required to submit chemical analyses of its current discharge for all toxic pollutants and pesticides defined in 40 CFR 125.58(aa) and (p). The analyses must be performed on two 24-hour composite samples (one dry weather and one wet weather). The City conducts influent and effluent monitoring following sampling schedules specified in the existing permit. Effluent samples are collected and analyzed on a weekly basis for metals, cyanide, ammonia, chlorinated pesticides, phenolic compounds, and PCBs. Analyses for organophosphate pesticides, dioxin, purgeable (volatile) compounds, acrolein and acrylonitrile, base/neutral compounds, and butyl tins are performed on a monthly basis. Influent and effluent monitoring data have been previously reported in monthly, quarterly, and annual reports to the Regional Water Board and EPA. The City submitted Point Loma WTP effluent data from 2002 through 2006 in electronic format, as part of the application. Based on influent and effluent data from 2006, the applicant indicates that there are no significant differences or evident trends in effluent quality between wet weather and dry weather conditions. These data are summarized by the City in Volume III, Large Applicant Questionnaire section III.H.1, of

the application. Table 27 lists the commonly detected toxic inorganic and organic constituents in the Point Loma WTP effluent during 2006.

Table 27. Commonly detected toxic inorganic and organic constituents in the Point Loma WTP effluent during 2006.

Inorganic Toxic Constituent	Organic Toxic Constituent
Antimony	1,4-dichlorobenzene
Arsenic	2-butanone
Barium	Acetone
Beryllium	BHC gamma (lindane)
Cadmium	Bis (2-ethylhexyl) phthalate
Chromium	Bromodichloromethane (Dichlorobromomethane)
Cobalt	Chloroform (trichloromethane)
Copper	Dibromochloromethane (chlorodibromomethane)
Lead	Diethyl phthalate
Lithium	Methyl tertiary butyl ether (MTBE)
Mercury	Methylene chloride
Molybdenum	Phenol
Nickel	Tetrachloroethylene (tetrachloroethene)
Selenium	Toluene
Silver	
Thallium	
Vanadium	
Zinc	
Cyanide	

Based on this information, EPA concludes that the applicant has met the requirement at 40 CFR 125.66(a)(2).

## 2. Toxic Pollutant Source Identification

Under 40 CFR 125.66(b), the applicant must submit an analysis of the known or suspected sources of toxic pollutants and pesticides identified in 40 CFR 125.66(a) and, to the extent practicable, categorize the sources according to industrial and nonindustrial types. As part of the City's industrial source control program, industries that may potentially discharge toxic organic or inorganic constituents into the Metro System are surveyed, discharge permits are issued, and industrial discharges are monitored. The applicant also performs an annual system-wide nonindustrial toxics survey program to further identify sources of toxic constituents within the Metro System. A summary of identified or suspected sources, sorted by categorical industries or noncategorical industrial/commercial facilities, for effluent pollutants of concern are listed in Tables III.H-8 (inorganic toxics) and III.H-9 (organic toxics), Volume III of the application.

Based on this information, EPA concludes that the applicant has met the requirement at 40 CFR 125.66(b).

### **3. Industrial Pretreatment Requirements**

Under 40 CFR 125.66(c), an applicant that has known or suspected industrial sources of toxic pollutants must have an approved pretreatment program, in accordance with 40 CFR 403. EPA approved the City's industrial pretreatment program, called the Industrial Wastewater Control Program, on June 29, 1982. The City's pretreatment program is summarized in Volume VII, Appendix K, of the application. Of the approximately 170 to 180 mgd of wastewater treated, the estimated contribution from Metro System industrial users is 2.5 percent. The program's active permit inventory includes: 50 categorical industrial users subject to federal categorical pretreatment standards and 20 additional significant industrial users subject to federal reporting requirements and local limits (i.e., 70 significant industrial users); 37 facilities with federally regulated processes where zero discharge is confirmed annually; and 1,550 non-categorical industrial users subject to applicable best management practices. The effectiveness of the Industrial Wastewater Control Program in reducing influent pollutant loadings is summarized in Appendix K. Local limits are reviewed annually and Attachment K3 contains the applicant's 2006 local limits update for Point Loma WTP. This review notes that the City's current local limits methodology facilitates a proactive planning approach to controlling pollutants which may become a problem in the future for the Point Loma WTP headworks and permit.

Based on this information, EPA concludes that the applicant has met the requirement at 40 CFR 125.66(c).

### **4. Nonindustrial Source Control Program**

Under 40 CFR 125.66(d), implementing CWA section 301(h)(7), the applicant must submit a proposed public education program and implementation schedule designed to minimize the entrance of nonindustrial toxic pollutants and pesticides into its POTW; and develop and implement additional nonindustrial source control programs, at the earliest possible schedule. These programs and schedules are subject to revision by the Regional Administrator during permit review and reissuance and throughout the term of the permit.

The applicant proposes to continue implementing and improving its nonindustrial source control program that has been in effect since 1982. The aim of this program is to reduce the introduction of nonindustrial toxic pollutants into the sewer system. Key elements of this program include: a Household Hazardous Waste Program; a public education program; development and implementation of Discharger permits and/or Best Management Practice Discharge Authorization requirements for select commercial sectors; and ongoing surveys to identify contaminant sources. Detailed descriptions of these program elements are presented in Volume VII, Appendices K and L, of the application.

Based on this information, EPA concludes that the applicant has met the requirement at 40 CFR 125.66(d).

### **G. Urban Area Pretreatment Program**

Under 40 CFR 125.65, implementing CWA section 301(h)(6), applicants serving a population of 50,000 or more and having one or more toxic pollutants introduced into the POTW by one or more industrial dischargers must comply with urban area pretreatment program requirements. A POTW subject to these requirements must demonstrate it either has in effect a program that achieves secondary equivalency, as described at 40 CFR 125.65(d), or that industrial sources introducing waste into the treatment works are in compliance with all applicable pretreatment requirements, including numerical standards set by local limits, and that it will enforce these requirements. The applicant is subject to this regulation.

In the 1995 application, the City indicated it would comply with urban area pretreatment program requirements by demonstrating that it has applicable pretreatment requirements in effect. The City submitted its Urban Area Pretreatment Program to EPA in 1996; the program was approved by the Regional Water Board on August 13, 1997 and by EPA on December 1, 1998.

As explained the preamble to the revised CWA section 301(h) regulations (59 Fed. Reg. 40642, August 9, 1994):

“EPA intends to determine a POTW’s continuing eligibility for a 301(h) waiver under section 301(h)(6) by measuring industrial user compliance and POTW enforcement activities against existing criteria in the Agency’s National Pretreatment Program. ... In 1989, EPA established criteria for determining POTW compliance with pretreatment implementation obligations. One element of these criteria is the level of significant noncompliance of the POTW’s industrial users. The General Pretreatment Regulations (part 403) identify the circumstances when industrial user noncompliance is significant. The industrial user significant noncompliance (SNC) criteria are set out in 40 CFR 403.8(f)(2)(vii) and address both effluent and reporting violations. ...

For pretreatment purposes, a POTW’s enforcement program is considered adequate if no more than 15 percent of its industrial users meet the SNC criteria in a single year. ... In addition, a POTW is also considered in SNC if it fails to take formal appropriate and timely enforcement action against any industrial user, the wastewater from which passes through the POTW or interferes with the POTW operations.

In enforcing the pretreatment programs, POTWs are expected to respond to respond to industrial user noncompliance using local enforcement

authorities in accordance with an approved enforcement response plan (ERP) which is required of all approved pretreatment programs (see 40 CFR 403.5). POTWs including 301(h) POTWs, with greater than 15 percent of their users in SNC, or which fail to enforce appropriately against any single industrial user causing pass through or interference, are deemed to be failing to enforce their pretreatment program. ...

... EPA believes that the combination of industrial user compliance and POTW enforcement provides an appropriate measure of the POTW's eligibility for the 301(h) waiver under section 301(h)(6)."

The "1989 criteria" discussed in the preamble are found in a September 27, 1989 memorandum, from James R. Elder to EPA Regional Water Division Directors, entitled "FY 1990 Guidance for Reporting and Evaluating POTW Noncompliance with Pretreatment Implementation Requirements" (Elder, 27 September 1989 memorandum).

Although the 1994 preamble for the urban area pretreatment program refers to "industrial users" when discussing the 15 percent noncompliance criteria, the "1989 criteria" only apply to "significant industrial users". This term is defined at 40 CFR 403.3(t) and includes all industrial users subject to categorical standards and other industrial users designated by the POTW. Also, the Agency has issued clarifying guidance explaining that the significant noncompliance criteria at 40 CFR 403(f)(2)(vii) apply to only significant industrial users, rather than all industrial users. Consequently, in the context of the urban area pretreatment program, EPA views the 15 percent noncompliance criteria to include only significant industrial users in significant noncompliance which have not received at least one formal enforcement action from the POTW. EPA believes that the combination of industrial user compliance and POTW enforcement provides an appropriate measure of a POTW's eligibility for a variance under CWA section 301(h)(6).

The City's Enforcement Response Plan is described in Volume VII, Appendix K, of the application. The second level of formal enforcement is an Administrative Notice and Order which may be issued when an industrial user: fails to take any significant action to establish compliance within 30 days of receiving a Notice of Violation; fails to establish full compliance, beginning on the 91<sup>st</sup> day after receiving a Notice of Violation; is in significant noncompliance status; or violates a Compliance Findings of Violation and Order.

EPA recognizes that a specific enforcement response to a violation must be decided on a case-by-case basis; however, for most cases, EPA believes that an administrative notice and order, as described in the City's Enforcement Response Plan, are appropriate when significant industrial users are in significant noncompliance.

The local limits approved by EPA as part of the City's urban area pretreatment program were included in all industrial discharge permits by December 1997. As a consequence of any new local limits, some significant industrial users may need time to come into

compliance. In such cases, EPA expects the City to issue a Compliance Findings of Violation and Order which is the first level of formal enforcement in the City's Enforcement Response Plan. The order shall contain a schedule for achieving compliance with the new local limits. Significant industrial users receiving such orders will not be included in the 15 percent noncompliance criteria.

On April 29 through May 1, 2008, a team comprised of personnel from the Regional Water Board, EPA, and PG Environmental, LLC performed a detailed review of the applicant's compliance rates with respect to significant industrial users and how the applicant had applied the definition of significant noncompliance to significant industrial users failing to achieve compliance with all applicable regulations. The summary statistics in Table 28 indicate the applicant is meeting the 15 percent noncompliance criteria.

Table 28. Summary of significant industrial users (SIUs) in significant noncompliance (SNC) percentage status.

Parameter	2003	2004	2005	2006	2007
Number of SIUs	90	84	81	79	92
Number of Permitted Outfalls	117	115	110	113	122
Number of Outfalls in Consistent Compliance	75	74	76	79	92
Number of Outfalls in Inconsistent Compliance	30	30	26	27	16
Number of Outfalls in SNC	12	11	8	7	14
Percentage (%) of Total Number of SIUs in SNC	10.3% (12/117)	9.6% (11/115)	7.3% (8/110)	6.2% (7/113)	11.5% (14/122)
Adjusted Percentage (%) of Number of SIUs in SNC (based on Administrative Actions taken by City)	9.4% (11/117)	8.7% (10/115)	7.3% (8/110)	4.4% (5/113)	10.7% (13/122)

Federal pretreatment regulations at 40 CFR 403.8(f)(5) require the City to develop and implement an enforcement response plan. This plan must contain procedures indicating how the City will investigate and respond to instances of industrial user noncompliance. The City has an enforcement response plan and is applying that plan as required by federal regulations. The results of EPA's pretreatment inspection indicate that the City is taking enforcement actions as necessary and the rate of significant noncompliance among significant industrial users is less than the 15 percent criterion.

EPA finds that the applicant's urban area pretreatment program is acceptable, in the context of applicable 301(h) requirements. The 301(h)-modified permit will require an annual rate of significant noncompliance for significant industrial users that is no more than 15 percent of the total number of the applicant's significant industrial users. In addition, the applicant reported no instances of interference or pass-through. Consequently, enforcement against industrial users regarding those problems was not necessary.

Based on this information, EPA concludes that the applicant has met the requirement at 40 CFR 125.65.

#### **H. Increase in Effluent Volume or Amount of Pollutants Discharged**

Under 40 CFR 125.67, which implements CWA section 301(h)(8), no modified discharge may result in any new or substantially increased discharges of the pollutant to which the modification applies above the discharge specified in the 301(h)-modified permit. In addition, the applicant must provide projections of effluent volume and mass loadings for any pollutants to which the modification applies, in five year increments, for the design life of the facility.

CWA section 301(j)(5) requires the City to remove not less than 58 percent of the biochemical oxygen demand (on an annual average) and not less than 80 percent of total suspended solids (on a monthly average). The City must also implement a wastewater reclamation program that, at minimum, will result in a reduction in the quantity of suspended solids discharged into the marine environment during the period of the modification. The projected end-of-permit (2014) annual average effluent flow is 202 mgd. The draft NPDES permit proposes the following effluent limits for total suspended solids and biochemical oxygen demand (Table 29).

Table 29. Effluent limits based on CWA sections 301(h) and (j)(5).

Effluent Constituent	Units	Annual Average	Monthly Average
TSS	% removal <sup>1</sup>	---	≥80
	mg/l	---	75 <sup>4</sup>
	Metric tons/year	15,000 <sup>2</sup>	---
13,598 <sup>3</sup>		---	
BOD5	% removal <sup>1</sup>	≥58	---

<sup>1</sup> To be calculated on a system-wide basis, as provided in Addendum No. 1 to Order No. R9-2002-0025.

<sup>2</sup> To be achieved on permit effective date through December 31, 2013. Applies only to TSS discharges from POTWs owned and operated by the Discharger and the Discharger's wastewater generated in the Metro System service area; does not apply to wastewater (and the resulting TSS) generated in Mexico which, as a result of upset or shutdown, is treated at and discharged from Point Loma WTP. [Approximates the average dry-weather flowrate capacity of the ocean outfall of 219 mgd and the Regional Water Board's TSS effluent limit for POTWs, based on BPJ, of 50 mg/l (as daily and instantaneous maximum), in 1990.]

<sup>3</sup> To be achieved on January 1, 2014. Applies only to TSS discharges from POTWs owned and operated by the Discharger and the Discharger's wastewater generated in the Metro System service area; does not apply to wastewater (and the resulting TSS) generated in Mexico which, as a result of upset or shutdown, is treated at and discharged from Point Loma WTP. [Approximates the projected effluent flowrate for 1997 of 185 mgd and the TSS effluent concentration of 53 mg/l.]

<sup>4</sup> Based on average monthly performance data (1990 through 1994) for the Point Loma WTP provided by the Discharger for the 1995 301(h) application.

According to the applicant, the design life of Metro System treatment facilities varies among the treatment components. Onsite mechanical equipment may have a design life of 20 years, while concrete structures may last for 50 years or more. In responding to 40 CFR 125.67, the applicant uses a design life of 20 years to project flow and mass loads. Table II.A-21 in Volume III of the application provides projections for Metro System flow and mass loads for total suspended solids and biochemical oxygen demand, in one year increments, through 2027. This table also provides flow and total suspended solids load projections for the PLOO discharge. Table 30 summarizes these projections for the term of the proposed permit (2009/10 through 2013/14).

Table 30. Point Loma Ocean Outfall flows (mgd) and total suspended solids loadings (MT/yr) projections for long-term facilities planning during the term of the proposed permit and proposed total suspended solids mass emission effluent limits.

Year	Projected Annual Average Discharge	Projected TSS Mass Emissions	Proposed TSS Mass Emission Effluent Limits
2009	193	11,500	15,000
2010	194	11,800	15,000
2011	195	11,700	15,000
2012	197	11,800	15,000
2013	199	11,900	15,000
2014	202	12,100	13,598

The applicant's projections in Table 30 and proposed effluent limits in Table 29 satisfy the applicable requirements. Based on Table 30, EPA believes that a total suspended solids mass emission rate of 12,100 metric tons per year would be achievable during all



five years of the proposed 301(h) modification. During this period, EPA recognizes that reductions in mass emissions resulting from increased water reclamation are likely to be seasonal and anticipates the potential for corresponding higher mass emission rates during wet weather months. In the future, the City needs to pursue additional water reclamation and reuse projects, including those which demand a year-round supply of reclaimed water so as to maintain long-term compliance with this decision criterion.

## **I. Compliance with Other Applicable Laws**

Under 40 CFR 125.59(b)(3), a 301(h)-modified permit shall not be issued where such issuance would conflict with applicable provisions of State, local, or other federal laws or Executive Orders.

### **1. Coastal Zone Management**

A 301(h)-modified permit shall not be issued where such issuance would conflict with the federal Coastal Zone Management Act, as amended. In accordance with this law, an applicant must receive State certification that the modified discharge complies with applicable portions of the approved State coastal zone management program, or the State waives such certification.

Upon adoption of the 301(h)-modified NPDES permit by the Regional Water Board, the applicant will transmit correspondence requesting a determination from the California Coastal Commission, San Diego Coast Region, that the existing and proposed Point Loma WTP discharge are consistent with applicable coastal zone management requirements. Volume VIII, Appendix U, of the application. The issuance of a 301(h)-modified permit for the Point Loma WTP discharge is contingent upon the California Coastal Commission certification.

### **2. Marine Sanctuaries**

A 301(h)-modified permit shall not be issued where such issuance would conflict with the federal Marine Protection, Research and Sanctuaries Act, as amended. In accordance with this law, a 301(h)-modified permit may not be issued for a discharge located in a marine sanctuary designated pursuant to Title III, if the regulations applicable to the sanctuary prohibit issuance of such a permit.

The PLOO is not located in a marine sanctuary, although more than a dozen protected marine areas exist within San Diego County. Two of these areas (San Diego-La Jolla Ecological Reserve and San Diego Marine Life Refuge), located approximately 21 to 22 kilometers north of the discharge point, have been designated by the State Water Board as "Areas of Special Biological Significance". The discharge of wastewater to these zones is prohibited by the California Ocean Plan. A detailed description of protected areas in the vicinity of the PLOO is found in Volume V, Appendix G, of the application. EPA believes that given the distance to protected areas, pollutants discharged from the

PLOO will be diluted to background levels by the time the wastefield approaches any of these protected areas.

### **3. Endangered or Threatened Species**

A 301(h)-modified permit shall not be issued where such issuance would conflict with the federal Endangered Species Act, as amended. This law is administered by the U.S. Fish and Wildlife Service and the NOAA National Marine Fisheries Service (collectively, the Services).

According to the applicant, 24 listed and candidate species may occur in the vicinity of Point Loma. Operation of the PLOO could affect these species by altering physical, chemical, or biological conditions, including: habitat suitability, water quality, biological integrity, food web dynamics, or the health of organisms. However, long-term monitoring conducted by the City shows no evidence of significant effects from operation of the PLOO on environmental conditions or biological communities. The applicant has reported to the Services that maintaining the existing discharge through the PLOO should not have an adverse impact on listed species or threaten their critical habitat.

By letters dated October 29, 2007, the applicant has requested determinations by the Services that the modified discharge is consistent with the federal Endangered Species Act. The issuance of a 301(h)-modified permit for the Point Loma WTP discharge is contingent upon determinations by the Services.

### **4. Fishery Conservation and Management**

A 301(h)-modified permit shall not be issued where such issuance would conflict with the federal Magnuson-Stevens Fishery Conservation and Management Act, as amended (the MSA).

According to the applicant, the marine environment in the vicinity of Point Loma supports a wide variety of commercial fisheries that are protected and managed through the "Essential Fish Habitat" provisions of the MSA. The fisheries management plans (FMPs) for species that could occur in the Point Loma area are the Pacific Groundfish FMP (83 species), the Coastal Pelagic Species FMP (6 species), and the U.S. West Coast Fisheries for Highly Migratory Species (13 species). According to the applicant, the PLOO could have two types of effects on fisheries: physical impacts associated with the presence of the pipeline and diffusers on the ocean bottom, and biological impacts associated with the discharge of treated wastewater. Based on long-term monitoring results, the applicant has reported to the National Marine Fisheries Service that maintaining the existing discharge through the PLOO should not have an adverse effect on Essential Fish Habitat or Managed Species.

By letter dated October 29, 2007, the applicant has requested a determination by the National Marine Fisheries Service that the modified discharge is consistent with the

Magnuson-Stevens Fishery Conservation and Management Act. The issuance of a 301(h)-modified permit for the Point Loma WTP discharge is contingent upon the NMFS' determination.

#### **J. State Determination and Concurrence**

In accordance with 40 CFR 125.59(i)(2), no 301(h)-modified permit shall be issued until the appropriate State certification/concurrence is granted or waived, or if the State denies certification/concurrence, pursuant to 40 CFR 124.54.

The PLOO discharges beyond the 3 nautical mile State waters limit, into federal waters. Therefore, EPA has primary regulatory responsibility for the discharge. However, in May 1984, a Memorandum of Understanding was signed between EPA and the State of California to jointly administer discharges that are granted 301(h) modifications from federal secondary treatment standards. Under California's Porter-Cologne Water Quality Control Act, the Regional Water Boards issue waste discharge requirements which serve as NPDES permits. The joint issuance of a 301(h)-modified NPDES permit for the Point Loma WTP discharge which incorporates both the federal 301(h) variance and State waste discharge requirements will serve as the State's concurrence, pursuant to 40 CFR 124.54.



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October 2, 2009

Chairperson Neely and Commissioners  
California Coastal Commission  
45 Fremont Street Suite 2000  
San Francisco, CA 94105-2219

Sent via Email [mdelaplane@coastal.ca.gov]

**Re: Comments on Consistency Certification No. CC-056-09 Reissuance of CWA Section 301(h) Secondary Treatment Waiver for Point Loma Wastewater Treatment Plant Discharges offshore of San Diego dated September 16, 2009.**

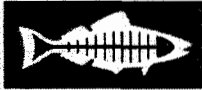
Dear Chairperson Neely and Commissioners,

On behalf of Heal the Bay and the Natural Resources Defense Council ("NRDC"), we appreciate the opportunity to provide the following comments on the above referenced Consistency Certification. Heal the Bay is an environmental organization with over 13,000 members dedicated to improving water quality in Santa Monica Bay and Southern California coastal waters for people and marine life. NRDC is a national environmental organization which has 1.2 million members and activists, 250,000 of whom are Californians.

We are extremely disappointed to see that this Consistency Certification is being reheard by the Coastal Commission after an August 13, 2009 unanimous vote by the Commission to deny consistency. We agreed with the Commissioners who spoke against the waiver at the August 13<sup>th</sup> hearing and believe that all of these points are still valid. As there is no significant new information being presented in the Staff Report dated September 16, 2009, it is unclear why this item is being reheard. Bringing an item back for a re-vote only a month later sets a horrible precedent and sends a message to the public that this is a political decision, especially considering that there is no new information. The Commission requires six months to elapse before allowing a permit resubmission. By allowing a resubmission so soon after a decision, the Commission sends the message to the regulated community – if at first you don't succeed, just try again. We urge the Commission to stand firm on the well-grounded technical and policy concerns they articulated in August.

Regardless, we submit these comments in opposition to the Consistency Certification for the reissuance of a waiver of Clean Water Act standards for the E.W. Blom Point Loma Metropolitan Wastewater Treatment Plant and Ocean Outfall ("Plant" or "PLOO"). Our

EXHIBIT NO. 13
APPLICATION NO.
CC-56-09



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comments include some new insights since our last letter dated August 11th on additional issues that clearly demonstrate that the Plant has not met its burden of proof to obtain another 301(h) waiver under the Clean Water Act or the California Coastal Act.

The Plant is one of the largest sewage treatment plants in California, dumping nearly 200 million gallons of wastewater into the Pacific Ocean every day. Despite the fact that publicly owned treatment works were required to upgrade to secondary treatment standards over 30 years ago, the Plant continues to operate under a waiver from these federal standards. As mentioned in the Staff Report, "in California, the City of San Diego is the only municipal ocean discharger that has not either achieved or committed to implementing full secondary treatment." Staff Report at 2. From a technical standpoint, every other municipal POTW in California has proven upgrading to secondary treatment is entirely feasible. As a policy matter, allowing one major discharger to continue to treat our oceans as a dumping ground for minimally-treated sewage is unjustified and unacceptable, especially at a time when water recycling is a critical part of the solution to California's water crisis. A minimum of secondary treatment is essential for any water recycling effort. As a legal matter, the Plant has failed to meet its burden of proof to obtain another 301(h) waiver under the Clean Water Act and has failed to comply with Sections 30230 and 30231 of the California Coastal Act. The Coastal Commission Staff recommendation to concur with the City of San Diego's consistency certification is thus unsupported by evidence and inappropriate.

### **Applicable Legal Standards**

As discussed in NRDC and Heal the Bay's January 28, 2009 letter to USEPA, the Plant has not met its burden of proof to obtain another 301(h) waiver under the Clean Water Act. To be eligible to receive a 301(h) waiver, the applicant must demonstrate that it can meet the "environmentally stringent criteria" under the Clean Water Act.<sup>1</sup> For many similar reasons, the discharge is also not consistent with applicable sections of the California Coastal Act. Specifically, we disagree with Staff's statement that the City's discharges under the renewal of the waiver from secondary treatment requirements would be consistent with the water quality and marine resources policies of the Coastal Act (Sections 30230, 30231). Staff Report at 3.

Section 30230 states,

"Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine

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<sup>1</sup> *In re Mayaguez Regional Sewage Treatment Plant Puerto Rico Aqueduct and Sewer Authority*, 4 E.A.D. 772 (1993); 33 U.S.C. § 1311(h).



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organisms adequate for long-term commercial, recreational, scientific, and educational purposes.”

Section 30231 states,

“The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, **encouraging waste water reclamation**, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams. [Emphasis added]”

The practice of dumping minimally treated sewage in the ocean is not consistent with these sections of the California Coastal Act, as it does not lead to maintenance, enhancement, or restoration of marine resources. Also as discussed in further detail below, current water reclamation efforts are inadequate and the monitoring program is insufficient as it does not adequately capture the movement of the plume and hence characterize the influence of the outfall on areas of special biological significance.

### **Water Reclamation**

As cited above, the California Coastal Act looks towards water reclamation as a key component in protecting coastal waters and habitats. The Point Loma Plant must upgrade to at least full secondary treatment to create much needed water recycling opportunities in San Diego. The region has aggressively moved forward on a controversial desalination plant at Carlsbad with considerable environmental impacts and extensive financial and energy costs, so clearly San Diego has already expressed an interest in finding new, reliable sources of local water. Upgrading the Plant is a smart way for San Diego to create this reliable source of local water, yet San Diego refuses to embrace water recycling as a solution to significantly augment their increasingly scarce water supplies.

San Diego's neighbors to the north have redoubled their water recycling efforts—Orange County Water District, Los Angeles County Sanitation Districts, and West Basin Municipal Water District produce nearly 150 MGD of recycled wastewater, and recently the LA County Sanitation Districts agreed to a long term goal in the recently updated Santa Monica Bay Restoration Plan of over 200 MGD from their secondary treatment plant in Carson. Meanwhile, Pt. Loma continues to operate at primary treatment and San Diego continues to have a poor record on water recycling.



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Earlier this year, the State Water Resources Control Board passed a comprehensive policy to increase water recycling statewide to combat California's increasing water scarcity due to climate change, growth, and recent water rights court decisions. The state made water recycling easier and set a goal of an additional one million acre feet per year of recycled water statewide by 2020 and 2 million acre feet by 2030. The use of water recycling has never been more important to augment local water supplies and to move California to sustainable water management.

Unfortunately, San Diego has provided no water recycling goals or milestones for the coming years. The commitment that has apparently been reached by certain stakeholders and the City to go forward on a recycled water study is much different than an actual *commitment* to recycle a certain volume of water by a date certain. In light of the California water crisis and the recently approved State water recycling policy, commitments to doing studies are not enough.

The City projects that the total suspended solids loadings from the WTP will be capped at 15,000 MT/yr for the life of the permit. Further the BOD loading is expected to be greater than that of a secondary treatment plant with BOD removal not less than 58%. As the WTP has been discharging to the ocean for over 45 years, this is a significant loading of pollutants. Thus at a minimum, San Diego should commit to recycling enough water within 5 to 10 years so that the BOD loadings from Point Loma are the same as the projected BOD loadings if the POTW went to full secondary treatment. Upstream water recycling is a way to get the loadings to a full secondary treatment equivalent level. In addition, TSS reduction to 30 mg/l can be reached at the plant through advanced primary treatments. This commitment would be a creative way to comply with the requirements of the Clean Water Act and increase the use of a precious resource.

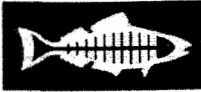
For instance, the approximate current TSS and BOD loadings are 21.6 million lbs/yr<sup>2</sup> and 61.1 million lbs/yr<sup>3</sup>, respectively. Thus, this equates to an additional loading of 2.5 million lbs/yr TSS and 42 million lbs/yr BOD compared to the loading if the 30 mg/l TSS and 30 mg/l BOD requirements for secondary treatment were in place. This extra loading must be addressed, in order to protect the marine environment.

**Although we strongly oppose a consistency determination by the Commission, in the event that the Commission changes their mind and determines that San Diego's application deserves a consistency determination, please adopt the following condition:**

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<sup>2</sup> Assume average TSS of 34 mg/l and flow of 208 MGD.

<sup>3</sup> Assume average BOD of 96 mg/l and flow of 208 MGD.



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**By 2020, San Diego shall reduce the pollutant loadings of BOD from the Point Loma discharge to a loading equivalent of reaching full secondary treatment at 208 MGD. Also by 2020, Point Loma shall reduce TSS concentrations to 30 mg/l.**

**This condition provides an incentive for increased water recycling in the region and greatly enhanced primary treatment at the Point Loma POTW.**

### Discharge Impacts

#### **New Disinfection Facilities**

As stated in the USEPA's Tentative Decision, "[p]rototype effluent disinfection facilities have been installed at the Point Loma WTP to allow the discharge to comply with recreational body-contact bacteriological standards throughout the water column (ocean surface to ocean bottom) in all State regulated waters (within three nautical miles of the coast)." EPA Decision at 14. The City began adding sodium hypochlorite to the effluent discharge on September 3, 2008, after exceedances of single sample maximum and geometric mean bacterial objectives at shoreline stations. EPA Decision at 79.

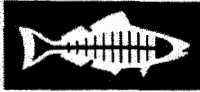
We are concerned about disinfection byproducts formed by Point Loma WTP's new chlorination practices. As you know, sewage has high concentrations of organic matter, nitrates, nitrites and ammonia. Chlorination of sewage forms chloramines very quickly, and it also likely forms a wide variety of chlorinated organics. The formation of chlorinated petroleum based organics, furanones, fulvics and other non-volatile organics are of great concern. A major disinfection byproduct is the potent carcinogen N-nitrosodimethylamine (NDMA). Specifically, NDMA, an emerging disinfection byproduct from the use of chloramines as disinfectant, has been linked to the occurrence of gastric cancer<sup>4</sup>. As there is no de-chlorination, any residual chlorine or free chlorine available by the time the effluent hits ocean water may lead to the formation of a wide variety of brominated organics. These byproducts are toxic in the marine environment. Although additional monitoring is proposed, we are concerned that some of these toxic byproducts will, in fact, be formed and discharged to the marine environment, leading to marine impacts. Also, chlorinated effluent is far more toxic than effluent without disinfection. There is simply not enough information known about the potential impacts of this new process in preparation for the upcoming permit cycle.

There is no discussion of toxicity or water quality data for effluent post chlorination within the Staff Report. This is concerning because monitoring pre-chlorination gives a gross underestimate

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<sup>4</sup> D Pobel, et al. (1995 Feb) Nitrosamine, nitrate and nitrite in relation to gastric cancer: a case-control study in Marseille, France. *European Journal of Epidemiology*;11 (1):67-73





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of the concentrations and loadings of disinfection byproducts and the effluent toxicity. The loading of disinfection byproducts is enormous, especially from primary treated effluent. The lack of analysis of disinfection impacts and increased disinfection byproduct loadings is yet another example of San Diego failing to meet the burden of proof to earn a waiver.

### **Benthic Macrofauna Impacts**

In order to meet its burden to obtain a 301(h) waiver under the CWA, the discharger must demonstrate that there is a balanced indigenous population of organisms outside the zone of initial dilution of discharge. The EPA decision document includes an assessment of the health of the benthic macrofauna community off of the discharge.

Although the EPA determined that the City met its burden to obtain a waiver under the Clean Water Act, the benthic macrofauna data nevertheless demonstrated that the biologically sensitive species – *Amphiodia* (brittle stars) are reducing in density in the area near the outfall, but outside the ZID. For example – brittle star densities at E-14 and E-11 were significantly different than reference conditions. Also, the *Amphiodia* densities decreased by over 75% at E-14 from the pre discharge time period (1991-1993) to the period 10-15 years later (2001-2005). Meanwhile, brittlestar densities at the reference areas remained stable or increased during this same time period. This is a typical ecological response that is seen in areas of high organic enrichment. The Point Loma discharge is clearly degrading the benthic macrofauna community with the pollution sensitive *Amphiodia*'s density reduction as a clear example.

A similar, but more dramatic occurrence occurred near the Los Angeles County Sanitation Districts outfall at White Point in Palos Verdes. As the most sensitive taxa to pollution, brittlestar populations were reduced dramatically, but other echinoderms such as sea urchins, sea stars and sea cucumbers were also reduced in numbers. The EPA decision document did not provide an analysis of these other sensitive species.

The pollutant tolerant taxa tell a similar story. When sewage discharges impair benthic soft bottomed communities, certain species of invertebrates like *Euphilomedes* crustaceans, *Capitella* worms and *Parvilucina tenuisculpta* (a bivalve) often increase in densities in areas of high organic enrichment. The case at Point Loma is no different. Reference locations had significantly lower densities of the crustacean and bivalve than sites close to the ZID. *Euphilomedes* densities at the E-14 site near the discharge increased dramatically from the pre-discharge time period to 10 to 15 years later. At the same time, densities of *Euphilomedes* actually decreased at the reference location B-9. The densities of the crustacean were significantly different higher at the near discharge sites compared to the reference locations.



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Again, this biological response is typical for benthic communities impacted by high organic enrichment such as primary treated sewage. The same trend is seen for *Parvilucina* bivalves and *Capitella* worms. The *Capitella* story is particularly dramatic. These polychaete worms are rarely seen in healthy soft bottomed communities in the San Diego portion of the Southern California Bight. In fact, none of the pollution tolerant worms were found in the monitored area prior to the discharge. Now the area near the outfall has densities of up to 17.5 per 0.1 m<sup>2</sup> while the reference locations are still only at 0.1 worms per 0.1 m<sup>2</sup>. This is a dramatic difference that demonstrates that Point Loma's discharge is negatively impacting the benthic community structure.

Although EPA focused on numerous other metrics to determine if the discharger met the heavy burden of demonstrating that there is a BIP outside the ZID, there is no question that the data demonstrates that sewage discharges are having significant negative impacts on sensitive species (*Amphiodia*) and increasing the densities of pollutant tolerant taxa at sites near the ZID. The discharger has failed to meet the biological requirements of 301(h) and the Coastal Act. Further, EPA's reliance on biological indices to grant the waiver misses an very important point. Indices rely on a wide variety of metrics for numerous species. An endangered species could go extinct in an area and still get a decent score on an index. It is far more appropriate to focus on species of concern and pollution sensitive and pollution tolerant species. As such, the City has not met its burden to obtain yet another five year waiver from the secondary treatment requirements.

### Emerging Contaminants

A recent study confirms that emerging contaminants can be an even greater risk from lower-treatment WWTPs. Ramirez et al. found that, "the degree and nature of treatment processes has a substantial influence over the removal efficiency of pharmaceuticals from wastewater discharge. As a result, exposure, and consequently tissue accumulation, would be expectedly higher in organisms residing in water resources receiving discharge from WWTPs employing less advanced versus more advanced treatment." (p. 26.)<sup>5</sup>

The study explained that, "[t]he most significant entry route for human pharmaceuticals into the aquatic environment is the point-source release from wastewater treatment plants (WWTPs)." The study continues: "Although WWTPs are capable of removing a large proportion of pharmaceuticals through various treatment processes, not all compounds are eliminated completely, with removal efficiencies varying according to the wastewater treatment processes employed at individual facilities, resulting in potential discharge to receiving waters." Thus, the study found that "[s]ites with more advanced wastewater treatment . . . tended to demonstrate

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<sup>5</sup> Ramirez AJ et al. *Pharmaceuticals and Personal Care Products in the Environment*. Occurrence of Pharmaceuticals and Personal Care Products in Fish: Results of a National Pilot Study in the United States (unformatted, but citable, manuscript, 2009 Society of Environmental Toxicology and Chemistry)



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fewer detections, at lower concentrations and lower frequencies than sites with less advanced treatment” (p. 20.)

This study confirms that the risks to marine life exposed to the Plant’s primary-treated effluent are at a higher risk for exposure to pharmaceuticals and personal care products than those in the zone of higher-treated effluent.

Two national-scale reconnaissance studies recently conducted by the USGS collected baseline information on the occurrence of pharmaceuticals and personal-care products (PPCPs), detergents, flame retardants, naturally occurring sterols, and other organic contaminants in ground water and untreated sources of drinking water in the United States. The results of these studies show the presence of these contaminants in 80% of the 139 streams tested across 30 states.<sup>6</sup> These contaminants are commonly derived from municipal, agricultural, and industrial wastewater sources and pathways<sup>7</sup>.

Emerging contaminants exist in the environment in small amounts, but even these small amounts, alone or via the synergistic effects of multiple contaminants, can have significant effects on beneficial uses. Studies demonstrate that a number of these substances pose a threat to human health, marine ecosystems, and other wildlife.

Research demonstrates that pharmaceuticals and personal care products (PPCPs) are very important contributors to toxicity in wastewater<sup>8</sup>. Significant amounts of PPCPs enter the environment from various inputs, including animal feedlots, land application of organic materials, and wastewater treatment plants that treat residential, commercial, and/or industrial wastewater<sup>9</sup>. In addition disinfection byproduct such as NDMA and halogenated organics are also CECs. Numerous studies have shown detrimental impacts of PPCPs on wildlife. For example, studies have shown that certain synthetic musks found in fragrances (commonly found in perfumes, shampoos, and lotions) have been found to cause mutation in lab rats<sup>10</sup>, and to inhibit the toxin defense system of certain marine mussels<sup>11</sup>. In addition, N-

<sup>6</sup> Barnes, K. et al. (2002). Water-Quality Data for Pharmaceuticals, Hormones, and Other Organic Wastewater Contaminants in U.S. Streams, 1999-2000 Iowa City, Iowa. USGS <http://toxics.usgs.gov/pubs/OFR-02-94/index.html#abstract> Accessed Nov 4, 2008.

<sup>7</sup> Daughton, C.G. (2004). Non-regulated water contaminants: emerging research. Environmental Impact Assessment Review 24 711– 732. U.S. EPA.

<sup>8</sup> Munoz, I. et al. (2008) Ranking potential impacts of priority and emerging pollutants in urban wastewater through life cycle impact assessment. posted Science Direct. Oct. 2008.

<sup>9</sup> Daughton, T. (1999). Pharmaceuticals and personal care products in the environment: agents of subtle change? Environmental Health Perspectives, December 1999, Vol. 107.

<sup>10</sup> Ibid.

<sup>11</sup> Luckenbach, Epel (2005). Nitromusk and Polycyclic Musk Compounds as Long-Term Inhibitors of Cellular Xenobiotic Defense Systems Mediated by Multidrug Transporters. Environmental Health Perspectives. Jan 2005. Vol 113, No. 1, p. 17-24.



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nitrosodimethylamine (NDMA), an emerging disinfection byproduct from the use of chloramines as disinfectant, has been linked to the occurrence of gastric cancer<sup>12</sup>.

As for pharmaceuticals, the state of California has already taken action to reduce the incidence of them in the environment by passing Senate Bill 966, a bill aimed to prevent the flushing of unused medical prescriptions down the toilet. These constituents are often found in treated wastewater because they are continually input, are sometimes recalcitrant, and require high level treatment methods for removal.<sup>13</sup> The State's action demonstrates the recognition by California that regulatory actions are appropriate at this time to protect public health.

Studies performed in California have demonstrated evidence of exposure and effects of emerging contaminants on marine life on a local basis. According to study performed by the Pacific Estuarine Ecosystem Indicator Research Consortium (PEEIR), reproductive abnormalities and endocrine disruption is evident in longjawed mudsucker (*Gillichthys mirabilis*), a salt marsh fish considered a sentinel species, at five wetland sites along California's coast where runoff and sewage treatment effluent are discharged<sup>14</sup>. In addition studies in southern California have revealed hormone alterations, and reproductive abnormalities in coastal flatfish near treatment plant outfalls due to exposure to emerging contaminants. Gender ratios of the hornyhead turbot (*Pleuronichthys verticalis*) showed a trend toward masculinization at the Orange County Sanitation District outfall.<sup>15</sup> Furthermore, endocrine disruption was potentially evident at this site as male fish were shown to have equivalent concentrations of blood egg yolk protein as those observed in female fish<sup>16</sup>. These are merely a few examples of the studied impacts of emerging contaminants on the environment. There are a multitude of concerns, given existing research demonstrates how marine life is already being impacted by these contaminants. Human health may be at risk as we directly consume affected species, irrigate crops with water containing harmful levels of PPCPs, perpetuate environmental bacteria developing a resistance to antibiotics that make their way into waterways, or even drink water containing traces of these constituents.

Due to the increased risk of CEC discharge from primary treatment plants and the potential marine life and human health impacts, this provides yet another case where the Plant has not demonstrated that it can meet the "environmentally stringent criteria" under the Clean Water Act.

<sup>12</sup> D Pobel, et al. (1995 Feb) Nitrosamine, nitrate and nitrite in relation to gastric cancer: a case-control study in Marseille, France. *European Journal of Epidemiology*;11 (1):67-73

<sup>13</sup> Ibid.

<sup>14</sup> PEEIR: Pacific Estuarine Ecosystem Indicator Research Consortium. Reproductive Impairment of a Salt Marsh Fish as an Indicator of Pollutant Effects Brochure.

[http://www.bml.ucdavis.edu/PEEIR/Brochures/Fish\\_Reproductive\\_Impairment.pdf](http://www.bml.ucdavis.edu/PEEIR/Brochures/Fish_Reproductive_Impairment.pdf) Accessed Nov. 5, 2008

<sup>15</sup> Rempel, M. et al. (2006) Evaluation of relationships between reproductive metrics, gender and vitellogenin expression in demersal flatfish collected near the municipal wastewater outfall of Orange County, California, USA. *Aquatic toxicology* 2006, vol. 77, no.3, pp. 241-249

<sup>16</sup> Schlenk, D. (2006). *Environmental Monitoring and Assessment of Environmental Estrogens in Marine*. UC Marine Council. Coastal Environmental Quality Initiative.



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### **Monitoring Program**

In order to ensure that marine resources are maintained as required by the California Coastal Act, an adequate monitoring program is necessary. Although Commission staff members have stated that the monitoring program has improved since the last waiver in 2002, we have yet to see these improvements. In fact at least three reports demonstrate that, among other deficiencies, the Plant's monitoring program is inadequate and therefore the Plant is unable to assure compliance with water quality standards, the protection and propagation of a balanced indigenous population, or compliance with the Ocean Plan.

- Scripps Institute of Oceanography Report (2004)
- Assessment of Water Conditions at Cabrillo National Monument (2006)
- University of California, San Diego Report (2007)

### **Scripps Institute of Oceanography Report (2004)**

After being hired by the City of San Diego to assess the adequacy of the Plant's monitoring program, Scripps Institute of Oceanography released its findings in 2004. Among other findings, Scripps bluntly concluded, "We don't know where the water goes, or where the plume goes."<sup>17</sup> Scripps described a number of other inadequacies in the Plant's monitoring program:

- "The City does not adequately monitor or understand the physical circulation of the coastal waters relevant to the Point Loma Ocean Outfall in terms of spatial and temporal variability and synoptic patterns (e.g., seasonal variability or in response to episodic events), or the geographic extent of the 'receiving waters.'"
- "The location, movement, and dispersal of the plume from the outfall is also inadequately monitored and understood."
- "Because of the lack of knowledge of the plume's location, its impact on the planktonic community is unclear. The spatial and temporal resolution, and the types of measurements currently made are inadequate to quantify the effects of chronic nutrient loading on the plankton relative to natural nutrient sources and other anthropogenic sources."
- "Understanding the impact of the outfall on the benthic environment requires modification of the existing monitoring program, primarily to provide more appropriate control stations."

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<sup>17</sup> Scripps Institute of Oceanography, "Point Loma Outfall Project" (Sep. 2004), at 26.



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Currently the control sites, because they are substantially different in the character of their sediments from the other monitoring sites, and because they may be contaminated from sources other than Point Loma, do not provide a basis for evaluating benthic impacts with confidence.”

- “Present monitoring does not include integration of littoral transport cells. Therefore, it is possible that contaminated sediments are accumulating downslope from the shelf, and because this area is not monitored, there is presently no way to know if the effects of the PLOO or other sources of contaminants are accumulating in these areas.”<sup>18</sup>

Further, the report states that in 2004 the City was considering an increase in the Plant’s daily discharge from 175 mgd to the Plant’s full capacity of 240 mgd. In response, Scripps stated, “A major conclusion of this review is that there is currently insufficient information to determine how the projected increase in the discharge at Point Loma would affect water quality ....”<sup>19</sup> According to the Staff Report, the Plant made changes to its monitoring program (Page 5); however, the details of the changes were not provided in the staff report. Also, it is not indicated that these changes were made in light of Scripps’ findings. Since the Plant has increased its daily discharge to 208 mgd for 2009, and is projected to further increase to 219 mgd for 2014,<sup>20</sup> it follows that the Plant’s current monitoring program is inadequate to determine how its current increased discharge affects water quality. As such, San Diego has failed to meet the burden of proof laid out in Section 301(h) of the Clean Water Act.

#### **Assessment of Water Conditions at Cabrillo National Monument (2006)**

Just to the south of the Plant lies the Cabrillo National Monument, part of the National Park Service (“Cabrillo”). In 2006, scientists at the Marine Science Institute at UC Santa Barbara, and the Bodega Marina Laboratory, released a study of the water quality conditions at Point Loma for the National Park Service’s Water Resources Division.<sup>21</sup> Like the Scripps report, this report discusses the problems that arise from insufficient information about the effluent plume:

This raises the possibility that the PLOO contributes to background concentrations of these constituents in the coastal ocean (i.e., farfield effects). Four of the analytes detected (copper, silver, cyanide and ammonia) were concentrated enough on average in effluent during 2004 to exceed EPA daily maxima or acute exposure criteria for marine life. Although the circumstances that could result in cross-shore transport of the PLOO effluent plume all the way to [Cabrillo]

<sup>18</sup> Scripps Institute of Oceanography, “Point Loma Outfall Project” (Sep. 2004), at 3.

<sup>19</sup> *Id.* at 26 (emphasis original).

<sup>20</sup> EPA Tentative Decision, at 17.

<sup>21</sup> Engle, D. and Largier, J., “Assessment of Coastal Water Resources and Watershed Conditions at Cabrillo National Monument, California” (Aug. 2006).



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have not been described, it is possible that exposure to poorly diluted effluent could harm some biota. Such an exposure occurred in 1992 at [Cabrillo] when the outfall pipe was ruptured near shore. . . . [We] do not know if the PLOO can be reasonably ruled out as a source of these pollutants in the ocean near [Cabrillo].”<sup>22</sup>

### University of California, San Diego Report (2007)

The City of San Diego also requested a scientific review of the impact of the Plant by the Environment and Sustainability Initiative at the University of California, San Diego. The report, which was released in 2007, did not conduct new research, but rather reviewed existing analyses and reports as requested by the City. Like in the 2004 report, the 2007 report found that the Plant’s monitoring program was insufficient to track the effluent plume:

- “[T]he complexity of the oceanographic conditions in the Point Loma area demands more observations before any conclusions can be made about the transport of the plume.”<sup>23</sup>
- “The physical oceanographic data at present is inadequate to predict with certainty either the location or the dilution rate of the plume.”<sup>24</sup>

This report also noted that PCB levels in rockfish caught close to the outfall were “significantly higher” than PCB levels in fish north of the outfall. This may indicate an absence of a balanced indigenous population in the vicinity of the outfall. Yet due to the inadequacies of the monitoring program, there “currently is no way to know definitively whether the elevated levels” were due to the Plant or another source.<sup>25</sup>

### Plume Study

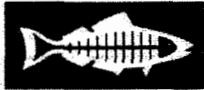
In the latest Staff Report, the City *acknowledges* that “the behavior of the Point Loma wastewater plume (wastefield) is not well known at the present . . .” Staff Report at 10. This echoes the concerns articulated in other monitoring studies which Heal the Bay and NRDC brought to the Commission’s attention in our August 11 letter and reiterated above. In this Staff Report, the City describes a study it is undertaking to learn more about the plume, but the results of this study will not be known until at least mid-2011. Staff Report at 11. This plume study is meant to “address two primary concerns of operating the ocean outfall in its current configuration: (1) possible effects to beach and near-surface water quality and (2) its risk to the coastal marine environment. This study addresses beach and surface water quality concerns by

<sup>22</sup> *Id.* at 141.

<sup>23</sup> Environment and Sustainability Initiative, University of California, San Diego, “Final Report: Point Loma Outfall Review” (Oct. 1, 2007), at 4.

<sup>24</sup> *Id.* at 16.

<sup>25</sup> *Id.* at 9.



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determining whether the wastewater plume surfaces and encroaches upon beaches, and if so, the frequency of such behavior.” (*Id.*)

Thus, this discussion in the latest Staff Report confirms that insufficient information is known at this time about the plume and its impacts in order for the City to meet its burden under the Clean Water Act. Further as the study will not be completed until at least mid-2011, the extent of impacts from the discharge is unknown for the upcoming permit cycle.

In sum, Point Loma WTP has not met its burden of proof to obtain another 301(h) waiver under the Clean Water Act or the Coastal Act. Lack of adequate information about the fate of the Plant’s effluent plume, increased loadings, the discharge of disinfection byproducts and emerging contaminants, and the creation of benthic macrofauna impacts are just a few of the reasons why consistency should be denied. Further, the gaps in monitoring do not provide a complete picture of the impacts of the primary discharge. Thus, we urge the Commission to concur with the original, unanimous decision to deny consistency.

Thank you for the opportunity to comment. If you have any questions, please contact us at 310-451-1500.

Sincerely,

Mark Gold, D. Env.  
President, Heal the Bay

Kirsten James  
Water Quality Director, Heal the Bay

Michelle Mehta  
Attorney, Natural Resources Defense Council

W. Susie Santilena, M.S., E.I.T.  
Water Quality Scientist, Heal the Bay







## THE CITY OF SAN DIEGO

October 6, 2009

Chairperson Neely and Commissioners  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

Subject: Item W 21a: City of San Diego NPDES Permit No. CA0107409  
Letter from Heal the Bay dated October 2, 2009

Dear Chairperson Neely and Commissioners:

In its letter to the Commission dated October 2, 2009, Heal the Bay (HtB) raises a number of issues that are either misleading and/or factually incorrect. The City of San Diego feels compelled to correct the record in order for you to make an informed decision at your October 7, 2009 meeting.

Page 2: Pt Loma does not discharge nearly 200 million gallons per day. Currently the flows from the plant are closer to 140 to 150 million gallons per day.

The wastewater is not "minimally" treated, but rather receives chemically assisted advanced primary treatment that removes only 2% to 3% less Total Suspended Solids than a secondary plant would achieve.

Pages 3&4: Converting Pt Loma to secondary would not substantially improve the ability to produce more reclaimed water. Pt Loma is at the end of the system. Water reclamation facilities need to be constructed upstream of Pt Loma where the reclamation markets exist.

Water Reclamation strategies can vary depending on the site specific conditions of each community. Since the adoption of the first modified permit in 1995 San Diego has constructed two water reclamation plants and gone from zero reclaimed water being marketed to over 13,000 acre-ft/year. Currently a significant pilot study is underway to evaluate the potential to receive regulatory approval to put highly treated wastewater back into the drinking water system. Another study, being conducted as part of a Cooperative Agreement with the local environmental community, involves a facility planning study to evaluate the potential of implementing decentralized water reclamation plants to produce additional reclaimed water and off-load Pt Loma to reduce the flows and loads to the ocean.

The TSS and BOD concentrations/mass emissions/flows recommended by HtB would short-circuit the Cooperative Agreement that is intended to provide this information to

### DIRECTOR OF PUBLIC UTILITIES

9192 Topaz Way • San Diego, CA 92123  
(858)292-6401

EXHIBIT NO. 14

APPLICATION NO.

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DIVERSITY  
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both San Diego and the local environmental community invested in outcomes at Pt Loma over the long term. The HtB recommended approach is not grounded in the permitting record, is not accurate, and will not further an investment in comprehensive regional planning and critical infrastructure for water reclamation/wastewater treatment upgrades in San Diego.

The current TSS and BOD loadings presented on page 4 are not accurate.

Page 5: New disinfection facilities were not installed as a result of exceedances of shoreline bacteriological samples. The Pt Loma facility has been in complete compliance with California Ocean Plan bacteriological standards for the shoreline (surf zone) monitoring stations as well as in the adjacent kelp beds located offshore since the extension of the outfall. The implementation of disinfection was the result of an interpretation that the same standard that had historically been applied to only these recreational areas was now going to be required from the shore to 3 nautical miles offshore and from the surface to the bottom. Laboratory pilot testing was performed to insure that a system could be implemented that would not result in the exceedance of any effluent water quality standard. The project was presented to USEPA and RWQCB staff for approval. Approval was granted, and the permit was subsequently modified by the adoption of Addendum No. 2 (Order No. R9-2002-0025, NPDES Permit No. CA0107409) in August 2008. Since implementation the effluent has been in 100% compliance with all water quality permit standards. No increases in toxicity have been observed.

Pages 6-7: Regarding the comments on Benthic Macrofauna Impacts, USEPA did not rely solely on the benthic response index (BRI) to reach their conclusion. Rather, they independently evaluated a suite of indicator organisms, various community metrics (infaunal abundance, species richness, dominance), and the BRI at potentially impacted stations nearest the outfall in relation to both control sites located along the 100-meter depth contour (discharge depth) and "reference envelope" conditions (i.e., San Diego regional reference stations at mid-shelf depths). Regarding the review of other taxa, San Diego has for years summarized trends for all the major benthic taxonomic groups (e.g., echinoderms, crustaceans, mollusks, worms, etc.) in their various reports and waiver applications. These data were also reviewed for adverse impacts or negative trends but none were found. Although the Tentative Decision Document (TDD) issued by USEPA did focus on analysis of indicator organisms and environmental index (BRI) metrics, this is because these have been scientifically demonstrated to be the most appropriate and rigorous tools for assessing impacts due to sewage discharges or other point or non-point sources. The following points address specific comments made by the HtB.

The patterns described by HtB have been previously reported and described in the City's annual monitoring reports, 301(h) waiver application, and in the USEPA's independent scientific review and TDD. However, none of these changes are indicative of degraded benthic habitats. In addition, analysis of the results for these and other community parameters clearly demonstrate that the benthic community present at all of

the Pt Loma monitoring stations continues to remain representative of a "Balanced Indigenous Population" (BIP) as defined in the Clean Water Act (§ 125.56), which states:

*"Balanced indigenous population means an ecological community which: (1) Exhibits characteristics similar to those of nearby, healthy communities existing under comparable but unpolluted environmental conditions; or (2) May reasonably be expected to become re-establish in the polluted water body segment from adjacent waters if sources of pollution were removed."*

*Amphiodia* populations near the outfall (and elsewhere) remain within the range of natural variability seen throughout the Southern California Bight (SCB) and are characteristic of natural indigenous populations (i.e., BIP maintained). Although reductions that have occurred nearest the outfall may be consistent with predicted effects of organic enrichment, other factors such as increased predation pressure by fishes attracted to the outfall pipe (e.g., basses and surfperch) and sediment instability or patchiness associated with the physical structure of the outfall also impact these organisms. There is no reason or evidence to suspect that the minor change in effluent quality that would result from secondary treatment would have any effect on *Amphiodia* populations in the area.

*Euphilomedes* populations near the outfall (and elsewhere) remain within the range of natural variability seen throughout the SCB and are characteristic of natural indigenous populations (i.e., BIP).

The statement that densities of *Parvilucina tenuisculpta* increase in areas of high organic enrichment is incorrect. Instead, this bivalve tends to occur in high abundances in areas of moderate organic enrichment. However, *Parvilucina* densities off Pt Loma remain within the range of natural variability seen throughout the SCB and are characteristic of natural indigenous populations.

The statements regarding *Capitella* densities are incorrect. This polychaete is a naturally occurring member of the SCB benthic community. Additionally, densities of *Capitella* up to 17.5/0.1 m<sup>2</sup> are not indicative of a degraded community or of negative impact. Instead, these organisms are not considered indicative of degraded habitats until they become numerically dominant and reach densities of thousands of worms per sample (i.e., replace other species). Such is not the case off Pt Loma.

The comments that the USEPA's reliance on biological indices such as the benthic response index (BRI) is misguided, as it is not supported by current scientific research and evidence. Instead, use of the BRI has been proven to be an effective tool for assessing benthic environmental impacts in southern California waters and had been accepted as such by the entire regulatory community. Values for BRI at all Pt Loma stations remain characteristic of historical natural benthic communities off southern California.

In comparing San Diego benthic communities to results from LA County, Heal the Bay commented that the USEPA did not take into account populations of echinoderms other than brittle stars such as sea urchins, sea stars and sea cucumbers in their waiver review.

USEPA did not do this because echinoderms are typically not a significant component of the benthic infauna community. Instead, these organisms are regular members of the larger (megabenthic) invertebrate community that is monitored using different techniques (trawls) and on different spatial and temporal scales. However, such monitoring of the megabenthic invertebrate fauna is done on a regular basis off Pt Loma, and the results of long-term analysis of these data were included in the City's 301(h) waiver application as well as in the City's regular annual receiving waters monitoring reports. These results have shown that there has never been any indication that populations of these types of species have been impacted near the outfall.

Additionally, the benthic conditions off San Diego should not be compared to historical conditions in the LA region due to the shallower outfall environments, larger flows, different waste streams, historical treatment level differences, and presence of legacy contaminants (e.g., DDT).

Page 7:

The discussion of emerging contaminants (Contaminants of Emerging Concern or CECs) is speculative in that the research on this issue is still a work in progress and secondary treatment in itself may not be the answer. Product regulation and control to reduce the loadings to wastewater treatment plants is also important. The regulatory agencies are still defining the extent of the problem and potential solutions. Pt Loma is in compliance with all regulated substances as well as toxicity. San Diego participates in the state-wide "no drugs down the drain campaign" and maintains a household waste receiving facility.

San Diego is also actively involved in several ongoing major studies to address CECs that are being coordinated by the Southern California Coastal Water Research Project (SCCWRP) and that involve all the other major southern California discharge agencies (e.g., City and County of Los Angeles, Orange County) and scientific experts from several major universities (e.g., UCSD, UCR, CSULB). These include adaptive such as: (a) Occurrence and fate of emerging contaminants in coastal habitats; (b) Emerging contaminant effects on coastal fish; and (c) Molecular tools for assessing contaminant exposure and effects.

Pages 10-13: HtB refers several times to the insufficiency of the City's monitoring program and state that they "have yet to see" any improvements that were mentioned in the first Coastal Commission staff report. The City has implemented many improvements and/or special studies since 2002 as documented in the Coastal Commission staff report, USEPA's and RWQCB's previous reviews and responses, the City's waiver application, and as noted below.

HtB states that three different reports (SIO, 2004; Engle & Largier, 2006; UCSDESI, 2007) demonstrate that the Pt Loma monitoring program is inadequate, and refers to several points in these reports to make their case concerning the areas of concern. However, **the purpose and/or conclusions in these reports have been either misunderstood or misstated.** These reports do not conclude that that the monitoring program is inadequate. Instead, the reports point out areas where additional information is needed to assess regional conditions and makes subsequent recommendations for

enhanced monitoring. The City has already implemented special studies or modified the monitoring program to address many of the issues raised (see below).

***Physical circulation and plume tracking:*** HtB states that the City's program is inadequate in that it does not monitor or understand physical circulation patterns or plume dispersion off Pt Loma. However, in response to such recommendations in the SIO (2004) report, the City implemented a 2-phased special study several years ago in response to such recommendations in the SIO (2004) report as follows:

- Phase 1 (2006-present): current meters and temperature mooring study – results have revealed the major modes of circulation and temperature stratification off Pt Loma so that we now understand the circulation patterns that the plume is subjected to as it mixes and moves away from the outfall;
- Phase 2 (2009-10): utilizing an autonomous underwater vehicle equipped with sensors that can detect the plume; knowledge of actual plume behavior in response to circulation features will be used to model near and far-field mixing and movement of the plume; final report due Fall 2011.

***Planktonic community:*** HtB states that the impact on the planktonic community is unclear because of the lack of knowledge of the plume's location, and that preset measurements are inadequate to quantify the effects of chronic nutrient loading on the plankton relative to natural or other anthropogenic sources.

However, inorganic forms of nitrogen (e.g., nitrate and ammonium) are the nutrients mainly limiting phytoplankton and giant kelp growth in southern California. The input of nitrogen into this ecosystem by POTWs such as the PLWTP is negligible relative to natural sources. Additionally, secondary treated sewage is actually more likely to impact phytoplankton communities because it has higher concentrations of inorganic nitrogenous nutrients than wastewater treated to primary or advanced primary levels. Finally, physical circulation and plume tracking studies are already underway off Pt Loma (see above).

***Benthic control sites:*** HtB refers to statements in referenced reports that more appropriate control sites are needed, and therefore conclude that the monitoring program is inadequate.

Statements in the SIO 2004 report were based on an analysis of the fixed grid sites for Pt Loma, and the subsequent interpretation that some of the most distant "reference" stations were of a different habitat type and therefore not directly comparable to sites closer to the outfall. Although true, some sites are comparable, while the City also monitors other sites as well. Additionally, the best way to overcome difficulties with such static grid station designs is to sample many sites spatially situated at different distances to understand spatial habitat and community variability. The City has and continues to conduct extensive benthic monitoring of the San Diego coastal shelf at many sites other than the Pt Loma and South Bay grid stations (e.g., ~300 "regional" sites between 2003-2009). Finally, the City also participates on a regular basis with the larger-scale Southern California Bight (SCB) regional monitoring programs coordinated by SCCWRP (e.g., 1994, 1998, 2003, 2008). One of the primary goals of these programs is to assess reference conditions for the SCB.

**Deep benthos:** HtB commented that contaminated sediments may be accumulating downslope from the shelf, but that “there is presently no way to know if the effects of the Pt Loma Ocean Outfall or other sources” are responsible for such as this area is not monitored.

In response to recommendations for deep monitoring, the City has modified their sampling to include sites on the upper and lower slope (200-1000m), including more than 50 sites between 2003-2009:

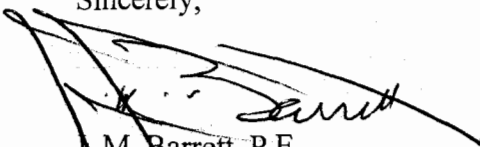
- Bight’03 (2003): 11 deep sites in San Diego region added to the Bight’03 program.
- Deep Benthic Pilot Study (2005): San Diego special study where 16 stations were stratified by slope and depth to ensure adequate coverage of slope sediments at sites downshelf from Pt Loma where sediment accumulation was most likely; there was no evidence of contaminant accumulation in these areas.
- Bight’08 and San Diego Deep Enhancement Study (2008): A total of 23 deep sites were sampled in 2008 off San Diego as part of the Bight’08 project and a special enhancement study by the City. [data pending]
- San Diego Region Regional Survey (2009): The City added 6 deep sites off Pt Loma to their summer annual survey of benthic stations sampled between the USA/Mexico border and Del Mar. [data pending]

**PCBs in fishes:** HtB referred to the UCSDESI (2007) findings that PCBs in rockfish caught at a site close to the Pt Loma outfall were higher than in fish north of the outfall, and concluded that this a) may indicate an absence of a “balanced indigenous population in the vicinity of the outfall, and b) that the program was inadequate because there is no way to know whether the elevated levels were due to the PLWTP or another source.

The above results represented preliminary findings from a limited dataset; a more exhaustive study of PCB contamination in San Diego fishes, sediments and treatment plant effluent has since shown that most PCB contamination detected in shelf sediments and fish off San Diego is due to the dumping of contaminated sediments dredged from San Diego Bay (see Parnell, P. E., A. K. Groce, T. D. Stebbins, and P. K. Dayton. 2008. Discriminating sources of PCB contamination in fish on the coastal shelf off San Diego, California (USA). Marine Pollution Bulletin, 56(11): 1992-2002)

As evidenced above, the letter from Heal the Bay demonstrates a misunderstanding of the City’s request for a permit renewal. Therefore, the facts presented in the City’s application justify the approval of the consistency determination.

Sincerely,



J. M. Barrett, P.E.  
Director of Public Utilities

## COOPERATIVE AGREEMENT

This Cooperative Agreement ("Agreement") is entered into this 17<sup>th</sup> day of ~~January~~ <sup>February</sup>, 2009, by and between San Diego Coastkeeper ("Coastkeeper"), the San Diego Chapter of Surfrider Foundation ("Surfrider"), and the City of San Diego (the "City"), a municipal corporation, individually referred to herein as "Party" and collectively as "Parties."

### RECITALS

- A. Whereas, Coastkeeper and Surfrider have expressed concern over the City's application for a variance from secondary treatment requirements at the Point Loma Wastewater Treatment Plant (the "Waiver") and have litigated past Waiver issuances; and,
- B. Whereas, Coastkeeper and Surfrider have proposed that the City take a long-term view of its wastewater treatment and conveyance infrastructure and conduct a study to identify opportunities to increase recycling of wastewater and minimize discharges of treated sewage from the Point Loma Wastewater Treatment Plant; and,
- C. Whereas, by letter dated December 2, 2008, Region IX of the United States Environmental Protection Agency (the "EPA") tentatively approved the City's application for a Waiver under sections 301(h) and 301(j)(5) of the Clean Water Act; and,
- D. Whereas, the EPA's tentative decision indicates the City needs to pursue additional water reclamation and reuse projects, including those which demand a year-round supply of reclaimed water, to maintain long term compliance with mass emission permit limits for suspended solids; and,
- E. Whereas, the City, Coastkeeper and Surfrider recognize that studying the possibility of significantly reducing wastewater flows to the Point Loma Wastewater Treatment Plant and increasing wastewater recycling could benefit San Diego residents and the environment, and the Parties desire to cooperate in investigation of these opportunities; and,
- F. Whereas, in consideration of these recitals and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City, Coastkeeper, and Surfrider hereby set forth their mutual covenants and understandings as follows:

### AGREEMENT

#### ARTICLE I - CITY'S RESPONSIBILITIES

**1.1 Study of Wastewater Recycling - Scope of Work.** The City shall, in coordination with Coastkeeper and Surfrider, prepare and execute a Scope of Work for the preparation of a city-wide assessment ("Study") of its wastewater collection and treatment system. The goal of the Study shall be to identify opportunities within the City's system to maximize recycling and reclamation of wastewater for potable and non-potable uses. The Scope of Work shall at a

EXHIBIT NO. 15
APPLICATION NO.
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Surfrider from making substantive recommendations to any regulatory agency for strengthening the monitoring provisions of the Permit. Should such recommendation contribute towards any regulatory agency materially and significantly alter the terms of the Permit, the City may exercise its right to suspend or terminate this Agreement pursuant to Section 3.2.

**2.2 Other Assistance.** Coastkeeper and Surfrider shall attend meetings, communicate with the City, select an expert and provide any other assistance necessary for the City to complete its obligations as set forth in Article I above.

### ARTICLE III – SUSPENSION AND TERMINATION

**3.1 Third Party Litigation.** In the event any person, organization, or other third party initiates litigation, an administrative appeal, or other action challenging the EPA's or a State agency's decision to approve the Waiver, the City may, in its sole discretion, suspend or terminate this Agreement at any time while such litigation, appeal or other action is pending. The City shall provide advance notice of the suspension or termination in writing to Coastkeeper and Surfrider, specifying the period of suspension or the effective date of termination, as applicable.

**3.2 Modification of Proposed Permit Conditions.** In the event the EPA or a State agency materially and significantly modifies or alters the Permit conditions in the EPA's tentative decision, the City may, in its sole discretion, suspend or terminate this Agreement. The City shall provide advance notice of the suspension or termination in writing to Coastkeeper and Surfrider, specifying the period of suspension or the effective date of termination, as applicable.

**3.3 Extension of Time.** If this Agreement is suspended pursuant to this Article, the time for completion of the Scope of Work and the Study shall be extended by the length of time of the suspension unless otherwise agreed to in writing by the Parties.

### ARTICLE IV – OTHER CONDITIONS

**4.1 Effective Date.** This Agreement is subject to the approval of the Mayor and City Council. The obligations of the City, Coastkeeper, and Surfrider shall not become effective until such approval is received and this Agreement is fully executed by all Parties.

**4.2 Future Obligations.** The City is not obligated to implement any projects, studies, operational changes or other recommendations that may arise from completion of the Study or any reports issued thereunder. The City retains sole discretion to implement any or none of the recommendations of the study.

### ARTICLE V - MEDIATION

**5.1 Mandatory Non-binding Mediation.** If a dispute arises out of, or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract

action in third parties is unintended, and any such third party beneficiary is hereby expressly disclaimed.

**6.4 Jurisdiction and Venue.** The venue for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in the County of San Diego, State of California.

**6.5 Successors in Interest.** This Agreement and all rights and obligations created by this Agreement shall be in force and effect whether or not any Parties to the Agreement have been succeeded by another entity, and all rights and obligations created by this Agreement shall be vested and binding on any Party's successor in interest.

**6.6 Integration.** This Agreement and the Exhibits and references incorporated into this Agreement fully express all understandings of the Parties concerning the matters covered in this Agreement. No change, alteration, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless made in the form of a written amendment to this Agreement agreed to by both Parties. All prior negotiations and agreements are merged into this Agreement.

**6.7 Counterparts.** This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.

**6.8 No Waiver.** No failure of the City, Coastkeeper, or Surfrider to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect to any existing or subsequent breach.

**6.9 Municipal Powers.** Nothing contained in this Agreement shall be construed as a limitation upon the powers of the City as a chartered city of the State of California.

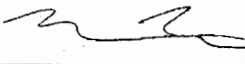
**6.10 Drafting Ambiguities.** The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

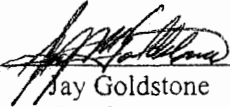
**6.11 Conflicts Between Terms.** If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego, acting by and through its Mayor or his designee, pursuant to City Council Resolution No. R-304617 authorizing such execution, by San Diego Coastkeeper, and by the San Diego Chapter of Surfrider Foundation.

SAN DIEGO COASTKEEPER

CITY OF SAN DIEGO

By:   
Bruce Reznik  
Executive Director

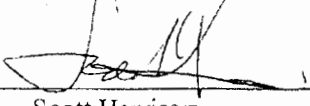
By:   
Jay Goldstone  
Chief Operating Officer

Date: January 30, 2009

Date: 2/17/09

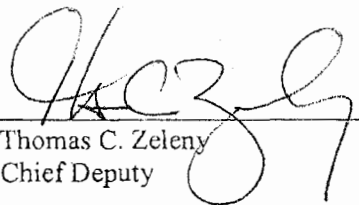
SURFRIDER FOUNDATION  
SAN DIEGO CHAPTER

I HEREBY APPROVE the form and legality of the foregoing agreement this 18 day of February, 2009.

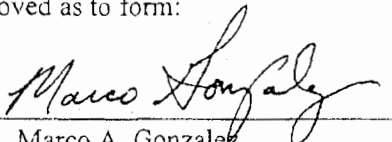
By:   
Scott Harrison  
Executive Committee Chairman

JAN I. GOLDSMITH, City Attorney

Date: 3 FEB 2009

By:   
Thomas C. Zeleny  
Chief Deputy

Approved as to form:

By:   
Marco A. Gonzalez  
Coast Law Group LLP  
Attorney for Coastkeeper and Surfrider

RESOLUTION NUMBER R-304617

DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL AUTHORIZING  
NEGOTIATION AND EXECUTION OF A COOPERATIVE  
AGREEMENT WITH SAN DIEGO COASTKEEPER AND  
THE SAN DIEGO CHAPTER OF SURFRIDER FOUNDATION;  
AND TAKING RELATED ACTIONS.

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor or his designee is authorized to negotiate and execute a Cooperative Agreement with San Diego Coastkeeper, the San Diego Chapter of Surfrider Foundation, and any other interested environmental groups, for the study of the feasibility of diverting wastewater from the Point Loma Wastewater Treatment Plant through increased wastewater recycling, in exchange for their support of the EPA's tentative decision regarding the National Pollutant Discharge Elimination System permit for the Point Loma plant.

BE IT FURTHER RESOLVED, that any decision by the City to suspend or terminate the Cooperative Agreement is subject to the approval of the Mayor and City Council.

BE IT FURTHER RESOLVED, that the Mayor or his designee is authorized to negotiate and execute one or more agreements with consultants and experts as needed to meet the City's obligations under the Cooperative Agreement, in a cumulative amount not to exceed \$2,000,000, provided the City Comptroller first certifies the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

BE IT FURTHER RESOLVED, that the City Comptroller is authorized to appropriate and expend an amount not to exceed \$2,000,000 from Sewer Fund 41509, solely and exclusively to hire consultants and experts needed to meet the City's obligations under the Cooperative Agreement.

BE IT FURTHER RESOLVED, that the City Comptroller is authorized to return excess budgeted funds, if any, to the appropriate reserves on advice of the administering department.

BE IT FURTHER RESOLVED, that the above activity is statutorily exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15262 as feasibility and planning studies.

APPROVED: JAN I. GOLDSMITH, City Attorney

By \_\_\_\_\_  
Thomas C. Zeleny  
Chief Deputy City Attorney

TCZ:mb  
01/21/09  
01/27/09 Rev.  
Cert.No:N/A  
Or.Dept:CityAtty  
R-2009-795 Rev.

I hereby certify that the foregoing Resolution was passed by the Council of the City of Diego, at its meeting of \_\_\_\_\_.

ELIZABETH S. MALAND, City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor