CERF
COASTAL ENVIRONMENTAL RIGHTS FOUNDATION

SAN DIEGO COASTKEEPER

August 27, 2019

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

SEP 04 2019

Universal Refuse Removal
ATTN: Managing Agent
1001 West Bradley Avenue
El Cajon, CA 92020

Waste Management of California, Inc.
ATTN: Managing Agent
1001 West Bradley Avenue
El Cajon, CA 92020

Waste Management of San Diego
ATTN: Managing Agent
1001 West Bradley Avenue
El Cajon, CA 92020

CT Corporation System
Registered agent for:
Waste Management of California, Inc.
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

Re: Notice of Violation and Intent to File Suit Under the Clean Water Act

To the Above-Listed Recipients:

Please accept this letter on behalf of San Diego Coastkeeper ("Coastkeeper") and Coastal Environmental Rights Foundation ("CERF") regarding violations of the Clean Water Act[1] and California's Storm Water Permit[2] occurring at the El Cajon Hauling, Transfer, and Recycling Facility, located at 1001 West Bradley Avenue, El Cajon, CA 92020 ("El Cajon Facility" or "Facility"). The purpose of this letter is to put Waste Management of San Diego, and/or Waste Management, Inc. ("Waste Management"), as the owner(s) and/or operator(s) of the Facility, on notice of the violations of the Storm Water Permit occurring at the Facility, including, but not limited to, discharges of polluted storm water from the El Cajon Facility into local surface waters. Violations of the Storm Water Permit are violations of the Clean Water Act. As explained below, Waste Management is liable for violations of the Storm Water Permit and the Clean Water Act.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen must give notice of his/her intention to file suit. Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA, the Executive Officer of the water pollution

[1] Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*
[2] National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001, Water Quality Order No. 92-12-DWQ, Order No. 97-03-DWQ ("1997 Permit"), as amended by Order No. 2014-0057-DWQ ("2015 Permit).

control agency in the State in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation. *See* 40 C.F.R. § 135.2(a)(1). This notice letter ("Notice Letter") is being sent to you as the responsible owner and/or operator of the El Cajon Facility, or as the registered agent for the owner and/or operator. This Notice Letter is issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act to inform Waste Management that Coastkeeper and CERF intend to file a federal enforcement action against Waste Management for violations of the Storm Water Permit and the Clean Water Act sixty (60) days from the date of this Notice Letter.

1. BACKGROUND

1.1. San Diego Coastkeeper and Coastal Environmental Rights Foundation.

San Diego Coastkeeper is a non-profit public benefit corporation organized under the laws of the State of California with its office at 2825 Dewey Road, Suite 207, San Diego, California 92106. Founded in 1995, San Diego Coastkeeper is dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of San Diego County watersheds. To further these goals, Coastkeeper actively seeks federal and state agency implementation of the Clean Water Act, and, where necessary, directly initiates enforcement actions on behalf of themselves and their members.

CERF is a non-profit public benefit corporation organized under the laws of the State of California with its main office in Encinitas, California. CERF is dedicated to the preservation, protection, and defense of the environment, the wildlife, and the natural resources of the California Coast. CERF's mailing address is 1140 S. Coast Highway 101, Encinitas, California 92024.

Members of Coastkeeper and CERF live in and around, recreate in and around, and enjoy the waters into which the Facility discharges, including Forester Creek, the San Diego River, and the Pacific Ocean (collectively "Receiving Waters"). Members of Coastkeeper and CERF use the Receiving Waters to swim, boat, kayak, surf, bird watch, view wildlife, hike, bike, walk, run, and/or for general aesthetic enjoyment. Additionally, members of Coastkeeper and CERF use the Receiving Waters to engage in scientific study through pollution and habitat monitoring and restoration activities. The discharges of pollutants from the Facility impair each of these uses. Discharges of polluted storm water from the Facility are ongoing and continuous. Thus, the interests of Coastkeeper's and CERF's members have been, are being, and will continue to be adversely affected by the Facility Owner and/or Operator's failure to comply with the Clean Water Act and the Storm Water Permit.

1.2. The Owner and/or Operator of the Facility.

Information available to Coastkeeper and CERF indicates that Waste Management of San Diego, and/or Waste Management, Inc. is/are the owner(s) and/or operator(s) of the Facility and has been for at least the past five years. The El Cajon Facility's Storm Water Pollution Prevention Plan ("SWPPP") indicates that the document was prepared for "Waste Management

of San Diego – El Cajon Hauling, Transfer, and Recycling Facility, 1001 West Bradley Avenue, El Cajon, CA 92020." Section 4.0 of the Facility's SWPPP dated June 2015 ("2015 SWPPP"), states that "[t]he facility is a hauling, transfer, and recycling facility operated by Waste Management." Information available to Coastkeeper and CERF indicates that Waste Management of San Diego falls under the corporate umbrella of Waste Management, Inc.[3] Waste Management of San Diego, and/or Waste Management, Inc. is herein referred to as "Waste Management" or "Facility Owner and/or Operator." Information available to Coastkeeper and CERF indicates that Waste Management, Inc. is an active Delaware corporation with its principal executive offices located at 1001 Fannin Street, Houston, Texas, 77002 and its registered agent is CT Corporation System, 818 West Seventh Street, Suite 930, Los Angeles, California 90017.

The El Cajon Facility Owner and/or Operator has violated and continues to violate the procedural and substantive terms of the Storm Water Permit including, but not limited to, the illegal discharge of pollutants from the Facility into local surface waters. As explained herein, the Facility Owner and/or Operator is liable for violations of the Storm Water Permit and the Clean Water Act.

1.3. <u>The Facility's Storm Water Permit Coverage</u>.

Certain classified facilities that discharge storm water associated with industrial activity are required to apply for coverage under the Storm Water Permit by submitting a Notice of Intent ("NOI") to the State Water Resources Control Board ("State Board") to obtain Storm Water Permit coverage. Information available to Coastkeeper and CERF indicates that the El Cajon Facility first obtained Storm Water Permit coverage on January 16, 1996. The Facility submitted its most recent NOI on June 1, 2015 ("2015 NOI"). Coastkeeper and CERF obtained the 2015 NOI from California's online Storm Water Multiple Application & Reporting Tracking System ("SMARTs") database. The 2015 NOI lists the Facility Waste Discharge Identification ("WDID") number as 9 37I012089, and identifies both the Facility site name and Facility operator as "Universal Refuse Removal." As previously noted, 2015 SWPPP was prepared for "Waste Management of San Diego – El Cajon Hauling, Transfer, and Recycling Facility," and states that "[t]he facility is a hauling, transfer, and recycling facility *operated* by Waste Management." 2015 SWPPP § 4.0 (emphasis added). As such, information available to Coastkeeper and CERF indicates that Waste Management, Inc. is the owner and/or operator of the Facility.

The 2015 NOI states that the Facility is 13.5 acres, 10 of which are exposed to storm water, and claims that only five percent of the site is impervious. The 2015 SWPPP also states that the total Facility parcel is 13.5 acres, but that 99% of the site is impervious.

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[3] Waste Management of San Diego Buyback and Recycling Center website includes the www.wm.com URL, and is branded with Waste Management, Inc.'s registered trademark. *See* https://www.wm.com/location/california/san-diego/el-cajon/locations/index.jsp.

The 2015 NOI lists the Standard Industrial Classification ("SIC") code for the El Cajon Facility as 4212 (local trucking without storage) and 4214 (local trucking with storage). The 2015 SWPPP list 4212 as the primary SIC code, 4214 as the secondary SIC code, and 5093 (scrap and waste materials) as a tertiary SIC code applying to industrial operations at the Facility. Information available to Coastkeeper and CERF, including the 2015 SWPPP describing vehicle and equipment maintenance and storage at the Facility, as well as transfer and recycling operations, indicates that SIC code 4231 (terminal and joint terminal maintenance facilities for motor freight transportation), and SIC code 4953 (refuse systems) also apply to the Facility.

SIC code 4953 facilities must obtain Storm Water Permit coverage for the entire facility. For facilities classified as SIC Code 4212, the Storm Water Permit requires permit coverage for "vehicle maintenance shops, equipment cleaning operations, or airport deicing operations." 1997 Storm Water Permit, Attachment 1. The Storm Water Permit regulates the portions of the facility which are used for "vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication) or other operations identified herein that are associated with industrial activity." 1997 Storm Water Permit Attachment 1; *see also* Attachment 4 (stating that "storm water associated with industrial activity" includes storm water discharges from material handling activities and storage areas for material handling equipment). Coastkeeper and CERF put the Facility Owner and/or Operator on notice that industrial activities are conducted throughout the Facility, and thus the entire Facility requires Storm Water Permit coverage. In addition, the Storm Water Permit's definition of "storm water associated with industrial activities," as well as the Permit's explanation of material handling activities, requires Permit coverage for all storm water from non-industrial sources that comingles with industrial storm water. Because the Facility lacks best management practices ("BMPs") or other controls to separate industrial storm water flows from portions of the Facility where non-regulated activities may occur, some industrial storm water at the Facility commingles with potentially non-regulated storm water, and thus all storm water discharges from the Facility require coverage under the Storm Water Permit.

1.4. <u>Storm Water Pollution and the Waters Receiving Facility's Discharges</u>.

With every significant rainfall event, millions of gallons of polluted storm water originating from industrial operations around San Diego County, such as the El Cajon Facility, pour into storm drains and local waterways. The consensus among agencies and water quality specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. Such discharges of pollutants from industrial facilities contribute to the impairment of downstream waters and aquatic dependent wildlife. These contaminated discharges can and must be controlled for the ecosystem to regain its health.

Polluted discharges from industrial facilities similarly situated to the El Cajon Facility often contain the following pollutants: heavy metals such as copper, iron, lead, aluminum, selenium, and zinc; pathogens and bacteria such as E. coli, enterococcus, and fecal coliform; excessive nutrients such as ammonia, nitrogen, and phosphorus; oil and grease ("O&G"), hydraulic fluids, antifreeze, aromatic hydrocarbons, and chlorinated hydrocarbons; solvents and detergents; and paints, among others. Many of these pollutants are on the list of chemicals

published by the State of California as known to cause cancer, birth defects, and/or developmental or reproductive harm.[4] Discharges of polluted storm water pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

Polluted discharges from the Facility harm the special aesthetic and recreational significance of the Receiving Waters, adversely impacting the public's ability, as well as that of Coastkeeper's and CERF's members, to use and enjoy these unique waterbodies. The Receiving Waters into which the El Cajon Facility discharges polluted storm water are ecologically sensitive areas. Although pollution and habitat destruction have drastically diminished once-abundant and varied habitats along the San Diego River, the River still serves as the lifeblood for dozens of fish, bird, mammal, and reptile species. In fact, sections of the San Diego River immediately downstream of the confluence with Forester Creek provides essential habitat for numerous "sensitive species" of birds, bats, mammals, reptile, amphibians, plants, and invertebrates.[5] This section of the River also provides key habitat linkages to the east and west, allowing species to move freely between "core resource" areas.[6] A large portion of the area where the San Diego River flows through Mission Gorge is designated as Critical Habitat by the U.S. Fish and Wildlife Service. It is home to the federally endangered least Bell's vireo, as well as numerous sensitive species included in the Multiple Species Conservation Program ("MSCP") including: mule deer, mountain lion, golden eagle, California gnatcatcher, and several bat species.[7] Storm water and non-storm water contaminated with pathogens, sediment, heavy metals, nutrients, and other pollutants discharged from the El Cajon Facility are deleterious to invertebrates, insects, larval fish, and local vegetation in Forester Creek, Mission Gorge and the San Diego River Valley. As such, these pollutants degrade the special biological significance of the area and strain the ecosystems on which numerous species, many of which are categorized as endangered or sensitive, depend for survival.

Polluted discharges from the Facility also harm the special aesthetic and recreational significance of the Receiving Waters, adversely impacting the public's ability, as well as that of Coastkeeper's and CERF's members, to use and enjoy these unique waterbodies. The San Diego River immediately downstream from the Facility runs through Mission Trails Regional Park, one of the largest municipally owned parks in the United States, as well as one of the most popular outdoor recreation destinations in the San Diego region. There are nearly ten miles of trails just in the Mission Gorge area of the park, many of which parallel or cross the San Diego River and offer recreational opportunities to observe unique habitat and animal life. Members of the public, including members of Coastkeeper and CERF, also enjoy picnicking, hiking, mountain biking, rock climbing, fishing, and aquatic activities such as paddle boarding and kayaking in numerous designated recreational areas along the Receiving Waters, which extend to the Pacific Ocean.[8] Pollutants discharged from the El Cajon Facility affect the health of the Receiving Waters, and

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[4] Health & Saf. Code §§ 25249.5 - 25249.1.
[5] Mission Trail Regional Park Master Plan Update, Feb. 2019, § 3.1.16, *available at* https://www.sandiego.gov/sites/default/files/mtrp_mpu_feb2019_web.pdf.
[6] *Id.*
[7] *Id.* § 3.4.3.
[8] *See Id.* § 3.4.5.

thus the plant and animal life of the surrounding habitats. Damage to these natural habitats, and thus the flora and fauna within them, harms the ability of the public, including Coastkeeper's and CERF's members' ability, to use and enjoy these unique recreational opportunities. Furthermore, Coastkeeper's and CERF's members are less likely to recreate in and around such waters that are known to be polluted with harmful pathogens, toxic metals, excessive nutrients, and other pollutants.

The Regional Board issued the *Water Quality Control Plan for the San Diego Basin* ("San Diego Basin Plan" or "Basin Plan"). The Basin Plan identifies the "Beneficial Uses" of water bodies in the region. The Beneficial Uses for the San Diego River downstream of the El Cajon Facility's point of discharge include: contact water recreation; non-contact water recreation; warm freshwater habitat; wildlife habitat; preservation of biological habitats of special significance; rare, threatened, or endangered species; agricultural supply; and industrial service supply. Basin Plan, Table 2-2. The Beneficial Uses of Forester Creek include: contact water recreation; non-contact water recreation; warm freshwater habitat; wildlife habitat; industrial service supply; and potential municipal supply. *Id.* The Beneficial Uses for the Pacific Ocean include: industrial service supply, navigation, contact water recreation, non-contact water recreation, commercial and sport fishing, wildlife habitat, preservation of biological habitats of special significance, marine habitat, migration of aquatic organism, spawning reproduction, and/or early development, shell harvesting, aqua culture, and rare, threatened, or endangered species. *Id.*, Table 2-3.

According to the 2016 303(d) List of Impaired Water Bodies, Forester Creek is impaired for benthic community effects, indicator bacteria (including E. Coli, fecal coliform, and total coliform), nitrogen, phosphorus, selenium, and total dissolved solids ("TDS"). The lower reach of the San Diego River is impaired for benthic community effects, cadmium, indicator bacteria (enterococcus), nitrogen, low dissolved oxygen, phosphorus, TDS, and toxicity. According to the 2016 303(d) List of Impaired Water Bodies, the Pacific Ocean shoreline at the San Diego River outlet is impaired for indicator bacteria such as enterococcus and total coliform.[9] Polluted discharges from industrial sites, such as the Facility, contribute to the degradation of these already impaired surface waters and aquatic-dependent wildlife.

2. THE EL CAJON FACILITY AND RELATED DISCHARGES OF POLLUTANTS

2.1. <u>The Facility Site Description and Industrial Activities</u>.

The Owners and/or Operators of the El Cajon Facility describe the Facility as a "a hauling, transfer, and recycling facility." 2015 SWPPP § 4.0. According to the 2015 SWPPP, "Waste Management uses the facility primarily to store and repair collection vehicles and bins, fuel collection vehicles, wash bins, operate a recyclables buyback and household hazardous

[9] 2016 Integrated Report – All Assessed Waters, *available at http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml* (last accessed on May 3, 2017.).

waste center, and conduct [municipal solid waste ("MSW")] and recyclables transfer operations." *Id.*

The 13.5 acre Facility, located in the city of El Cajon, California, is bisected by Forester Creek, which runs along the southeastern edge of the Facility, diagonally through the middle of the Facility, and exits the property at the far northwestern corner of the Facility. According to the Facility SWPPP and site map, the Facility "includes four buildings (the Administrative Building, Maintenance Building 1, the Transfer Building, and Maintenance Building 2), various storage areas, and parking areas." *Id.* § 3.2. Activities conducted in Maintenance Building 1, located just North of Forester Creek, include maintenance of MSW collection vehicles and a hazardous material storage area. *Id.* The Transfer Building, located on the northeastern portion of the Facility, houses transfer operations including loading and unloading of MSW and recyclables, the concrete and debris ("C&D") tipping area, a scale house, and MSW collection vehicle storage. *Id.* Activities conducted in Maintenance Building 2, centrally located on the Facility parcel just south of Forester Creek, include bin repair, washing, and painting, and hazardous material storage. *Id.* The SWPPP further notes that bins and toters are stored on the western and southern portions of the facility; diesel fueling is conducted on the central portion of the facility; equipment and parts are stored in containers or on the paved surface on the northwestern portion of the facility; concrete is stored on the northeastern corner of the facility; liquid natural gas/compressed natural gas ("LNG/CNG") fueling activities are conducted on the southeastern portion of the facility; and a buyback and household hazardous waste center is located on the eastern portion of the facility. *Id.*

The Facility SWPPP identifies numerous industrial materials that are stored, handled, or processed at the facility, including: "MSW, source separated co-mingled recyclable materials, household hazardous waste, petroleum products, universal waste, [LNG], [CNG], and hazardous materials associated with vehicle and bin maintenance and bin painting." *Id.* § 4.1. The SWPPP further clarifies that source separated co-mingled recyclable materials consist of "paper, cardboard, aluminum, glass, and plastics." The SWPPP also notes that a "Hazardous Material Business Plan (HMBP) has been prepared for this facility." *Id.* The recyclables buy-back and household hazardous waste drop-off center receives the comingled recyclables above, as well as used oil and filters, vehicle batteries, and electronic waste. *Id.* § 4.1.1. Materials used in the Facility's maintenance operations include antifreeze, waste coolant, lubricant, transmission fluid, hydraulic fluid, batteries, and diesel fuel. *Id.* § 4.1.2, and Table 2.

Information available to Coastkeeper and CERF indicates that the aforementioned industrial activities occur, and industrial materials are handled, at various locations throughout the Facility either outdoors without adequate cover to prevent storm water and non-storm water exposure to pollutant sources, and/or without adequate secondary containment or other adequate treatment measures to prevent polluted storm water and non-storm water from discharging from the Facility. Further, many pollutants associated with industrial activities occurring indoors or under partial shelter regularly escape via wind dispersion, vehicle track out, or otherwise, resulting in pollutant dispersal throughout the Facility. Information available to Coastkeeper and CERF indicates that the pollutants associated with the Facility have been and continue to be tracked by vehicles and dispersed via wind throughout the entire site, and on and off the Facility

through ingress and egress.[10] This results in trucks and vehicles tracking trash, pathogens, nutrient pollutants, sediment, dirt, O&G, metal particles, and other pollutants off-site. The resulting illegal discharges of polluted storm water and non-storm water impact Coastkeeper's and CERF's members' use and enjoyment of the Receiving Waters by degrading the quality of those waters, and by posing risks to human wellbeing, aquatic life, and ecosystem health.

2.2. Pollutants and Pollutant Sources Related to the Facility's Industrial Activities.

Despite the activities, materials, and pollutant sources listed above, the El Cajon Facility SWPPP states that the only "[p]otential pollutants of concern" from the Facility's recycling and waste transfer processes, and vehicle and equipment maintenance activities, are TSS and O&G. 2015 SWPPP §§ 4.2.1-2. The 2015 SWPPP fails to specifically identify any additional pollutants associated with any other industrial activity at the Facility. In addition, the Facility's Monitoring Implementation Plan ("MIP") indicates that the Facility only analyzes storm water samples for TSS, O&G, and pH, and the only "potential pollutants" identified in the SWPPP's BMP summary table are TSS and O&G. *Id.* § 8.4, and Table 3. Furthermore, the SWPPP's Pollutant Source Assessment claims that "[t]here are no known industrial pollutants related to the receiving waters with 303(d)-listed impairments," including "dissolved oxygen, phosphorus, nitrogen, sulfates, selenium, total dissolved solids, high pH, turbidity, and fecal coliform." 2015 SWPPP § 4.8.

Information available to Coastkeeper and CERF, including storm water monitoring data collected from the Facility by Coastkeeper, indicates that numerous pollutants associated with industrial activity are present in the Facility's storm water discharges. On May 16, 2019, Coastkeeper collected storm water flowing from the Facility's surfaces at or near Facility discharge location SW-1. As further discussed in Sections 3.2, 3.3, and 3.4, *infra*, storm water flowing from the Facility included high concentrations of aluminum, copper, iron, lead, zinc, nitrate and nitrite ("N+N"), phosphorus, total coliform, fecal coliform, and enterococcus, all of which exceeded various effluent limitations, water quality objectives, and receiving water limitations. Ex. 1, Coastkeeper Monitoring Data.

Additionally, information available to Coastkeeper and CERF indicates that pollutants commonly present in storm water discharged from facilities similar to the El Cajon Facility include: pathogens such as enterococcus, E.coli, and fecal coliform; excessive nutrients such as ammonia as nitrogen, N+N, total nitrogen, and phosphorus; metals such as aluminum, lead, zinc, manganese, selenium, copper, and iron; dissolved oxygen; as well as a host of other pollutants acknowledged in the Facility SWPPP as industrial materials such as gasoline and diesel fuels; fuel additives; coolants; antifreeze; transmission fluid; hydraulic fluid; waste oil; compressed natural gas; O&G; TSS; and pH affecting substances.

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[10] *See, e.g.*, notes and photos from Facility Inspection by the County of San Diego on January 23, 2019, *available at* https://www2.calrecycle.ca.gov/swfacilities/Directory/37-AA-0929/Inspection/444276 (identifying debris associated with various activities in various locations around the Facility).

Inspections of the El Cajon Facility conducted by Lead Enforcement Agencies ("LEA") indicate that the Facility handles significant quantities of MSW, green waste, e-waste, and other mixed recyclables. These inspection reports have also identified debris associated with MSW and recyclable transfer operations scattered about Facility, as well as persistent bird droppings near the transfer bay. For example, an inspection by the County of San Diego on January 23, 2019 found windblown litter, recyclables, and debris in multiple areas within the Facility,[11] and an inspection on March 25, 2019 found that dried and fresh bird droppings were a persistent issue in multiple locations of the Facility, noting that "dried bird droppings can harbor human pathogens."[12] An inspection on December 26, 2018 noted that "[s]everal TVs pulled from the self-haul area for staging were observed face down in a puddle of water from recent heavy rains," and cited concerns regarding e-waste contact with storm water and damage to cathode ray tubes ("CRTs").[13] E-waste contains high levels of toxic materials such as lead, mercury, cadmium and arsenic, which can leach into the environment, and when mishandled, can lead to irreversible health effects, including cancers, miscarriages, neurological damage and diminished IQs.[14] CRTs, in particular, contain extremely high quantities of lead.[15]

Furthermore, the Facility SWPPP's own description of industrial activities and materials indicates that the El Cajon Facility's storm water discharges will include additional pollutants beyond TSS, O&G, and pH. The 2015 SWPPP states that "[t]he primary potential sources of pollutants at the facility include industrial processes and industrial materials," and that the "most likely sources of stormwater pollutants are industrial processes that result in the release of dust and particles, oil and grease, and organics." 2015 SWPPP §§ 4.0, 4.2. The SWPPP goes on to acknowledge the following pollutant sources, among others: "materials in the Transfer Building can migrate outside when the vehicles are loading or unloading because of wind or track-out and may be exposed to stormwater" (2105 SWPPP § 4.1.1); "the buy-back center is not under cover and is exposed to stormwater; therefore, paper, cardboard, aluminum, plastic, and glass debris may be exposed to stormwater" (*id.*); and "loading activities for household hazardous wastes and e-wastes are not conducted under cover and are potentially exposed to stormwater" (*id.* § 4.1.3). The various waste and recycling streams identified in these processes typically involve pollutants

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[11] *Id.*

[12] *See* inspection notes and photos from Facility Inspection by the County of San Diego on March 25, 2019, *available at* https://www2.calrecycle.ca.gov/swfacilities/Directory/37-AA-0929/Inspection/446568 ("Cleanliness concerns in parts of Bay 4 related to dried and fresh bird droppings and other bird related debris continue to be observed along sections of the floor and wall in Bay 4 (Photos 4 and 5) and near the buyback area").

[13] *See* inspection notes and photos from Facility Inspection by the County of San Diego on December 26, 2018, *available at* https://www2.calrecycle.ca.gov/swfacilities/Directory/37-AA-0929/Inspection/443328.

[14] U.S. EPA Website, "Cleaning Up Electronic Waste (E-Waste)," *available at* https://www.epa.gov/international-cooperation/cleaning-electronic-waste-e-waste.

[15] U.S. EPA Website, "Final Rule: Streamlined Management Requirements for Recycling of Used Cathode Ray Tubes (CRTs) and Glass Removed from CRTs," *available at* https://www.epa.gov/hw/final-rule-streamlined-management-requirements-recycling-used-cathode-ray-tubes-crts-and-glass.

such as pathogens and bacteria, nutrients, toxic metals, and other potentially toxic substances. Additionally, although the SWPPP fails to define "organics" as a pollutant, the SWPPP's acknowledgement of "organics" further indicates that pollutants aside from TSS and O&G are present at the Facility. "Organics" may refer to organic materials such as food waste, yard trimmings, soiled paper, and wood waste,[16] or to synthetic organic compounds used in a variety of industrial and manufacturing materials including paint, adhesives, cleaners, solvents, sealants, pharmaceuticals, etc.[17] Under either definition, the SWPPP's acknowledgement of "organics" indicates that additional pollutants are present at the Facility.

As further discussed Sections 3.5.3 and 3.6.3, *infra*, the El Cajon Facility SWPPP has failed and continue to fail to adequately assess potential pollutants and pollutant sources, and the Facility has failed and continues to fail to monitor for all pollutants required by the Permit.

2.3. <u>El Cajon Facility Storm Water Flow and Discharge Locations</u>.

The El Cajon Facility SWPPP reports that the Facility has twelve industrial stormwater discharge locations and one non-industrial discharge location. 2015 SWPPP § 8.1.

According to the Facility SWPPP, storm water in the northeastern drainage area of the Facility discharges at SW-1. The drainage area discharging to SW-1 contains portions of the Transfer Building where transfer and C&D tipping operations take place, part of the collection vehicle driveway, and the concrete storage area. The SWPPP states storm water in this drainage area flows to one of two catch basins, and then a bioswale, "which removes some sediment and other potential pollutants," and thereafter discharges to the southern curb of West Bradley Avenue. *Id.* § 3.3.

According to the Facility SWPPP, discharge point SW-2 "accepts water from the eastern portion of Maintenance Building 1, the scale house area, the area between Maintenance Building 1 and the Transfer Building, and from the vehicle diesel fueling area." The SWPPP states that SW-2 is fitted with silt sifters "to remove sediment and other potential pollutants such as oil and grease and organics" prior to discharging directly into Forester Creek. *Id.*

According to the Facility SWPPP, storm water from the "collection vehicle driveway, eastern and southern portions of the Transfer Building, and the site buy-back and household hazardous waste drop-off center discharge into SW-3." The SWPPP and site map indicate that water from this drainage area flows to one of three drain inlets fitted with a filtering metal grate "to limit the amounts of larger materials from entering the storm water conveyance system," and is thereafter discharged directly into Forester Creek." *Id.*

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[16] U.S. EPA archived website, Region 9, "Organics," *available at* https://archive.epa.gov/region9/organics/web/html/index.html.
[17] California Stormwater Quality Association, Stormwater Best Management Practice Handbook, definition of "organics."

According to the Facility SWPPP, discharge point SW-4 collects water "from the eastern portion of Maintenance Building 2 (the bin welding/painting/repair portion of the building), the southern area of the bridge that spans Forester Creek, and the eastern portion of the collection vehicle parking area." The SWPPP and site map indicate that water from this drainage area flows to a drain inlet fitted with a metal grate. *Id.*

According to the Facility SWPPP, discharge point SW-5 "collects stormwater from the bin storage areas, the western portion of Maintenance Building 2 (hazardous material storage area), bin wash rack area, and a portion of the collection vehicle parking area." The SWPPP notes that SW-5 is fitted with a series of blocks, as well as silt sifters and a filtering metal grate to reduce sediment and other potential pollutants. *Id.*

According to the Facility SWPPP, discharge point SW-6 "accepts water from the western and southern portions of Maintenance Building 1, the hazardous waste storage area, and equipment/parts storage area." The SWPPP states that water from this area is filtered through silt sifters "to remove sediment and other potential pollutants such as oil and grease and organics that may be deposited in the area prior to direct discharge into Forester Creek." *Id.*

According to the Facility SWPPP, discharge point SW-7 "collects water from the southern portion of the employee vehicle parking area and the western corner of the equipment and parts storage area." The SWPPP states that water from this area is filtered through silt sifters and a filtering metal grate before being discharged directly into Forester Creek. *Id.*

According to the Facility SWPPP, discharge point SW-8 "collects water from the bin and container storage area." The SWPPP states that water from this area flows through a metal grate before being discharged directly to Forester Creek. *Id.*

According to the Facility SWPPP, discharge point SW-9 "collects water from the western portion of the bin and container storage area and the collection vehicle parking area. Stormwater at this location overland flows off-site to North Marshall Avenue." *Id.*

According to the Facility SWPPP, discharge point SW-10 "collects water from the southwestern portion of the collection vehicle parking area. Stormwater at this location overland flows off-site to North Marshall Avenue." *Id.*

According to the Facility SWPPP, discharge point SW-11 "collects water from the LNG/CNG tank and fueling area and eastern corner of the collection vehicle parking area. Stormwater flows to a filtering metal grate and silt sifters then through a vegetated area and directly discharges to Forester Creek." *Id.*

According to the Facility SWPPP, storm water collected in a V-ditch that runs along the landscaped portion near the collection vehicle parking area, on the southern boundary of the facility, discharges directly in Forester Creek. The SWPPP notes that "this discharge location does not commingle with industrial activities and as a result does not need to be monitored." *Id.*

According to the Facility SWPPP, an unnamed discharge point on the northern boundary of the facility "collects water from the northern portion of the employee vehicle parking area." The SWPPP states that water in this area "does not commingle with industrial activities and as a result does not need to be monitored." *Id.* However, the site map indicates there is another drain inlet within this drainage area located in the industrial area between Maintenance Building 1 and the Transfer Building, indicating that this drainage area receives storm water from both non-industrial and industrial areas of the Facility, and as such, storm water and non-storm water discharged from this drainage area could comingle, and should be monitored.

3. VIOLATIONS OF THE CLEAN WATER ACT AND THE STORM WATER PERMIT

In California, any person who discharges storm water associated with certain industrial activity must comply with the terms of the Storm Water Permit in order to lawfully discharge pollutants. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1).

Between 1997 and June 30, 2015, the Storm Water Permit in effect was Order No. 97-03-DWQ, which Coastkeeper and CERF refer to as the "1997 Permit." On July 1, 2015, pursuant to Order No. 2014-0057-DWQ the Storm Water Permit was reissued, which Coastkeeper and CERF refer to as the "2015 Permit." As explained below, the 2015 Permit includes terms that are as stringent or more stringent than the 1997 Permit. Accordingly, the El Cajon Facility Owner and/or Operator is liable for violations of the 1997 Permit and ongoing violations of the 2015 Permit, and civil penalties and injunctive relief are available remedies. *See Illinois v. Outboard Marine, Inc.*, 680 F.2d 473, 480-81 (7th Cir. 1982) (relief granted for violations of an expired permit); *Sierra Club v. Aluminum Co. of Am.*, 585 F. Supp. 842, 853-54 (N.D.N.Y. 1984) (holding that the Clean Water Act's legislative intent and public policy favor allowing penalties for violations of an expired permit); *Pub. Interest Research Group of N.J. v. Carter-Wallace, Inc.*, 684 F. Supp. 115,121-22 (D.N.J. 1988) ("[l]imitations of an expired permit, when those limitations have been transferred unchanged to the newly issued permit, may be viewed as currently in effect").

3.1. <u>Unauthorized NSWDs from the Facility in Violation of Storm Water Permit Discharge Prohibition</u>.

Except as authorized by certain special conditions, the Storm Water Permit prohibits permittees from discharging materials other than storm water ("non-storm water discharges" or "NSWDs") either directly or indirectly to waters of the United States. 1997 Permit §§ A.1, D.1; 2015 Permit § III.B. Prohibited NSWDs must be either eliminated or permitted by a separate NPDES permit. 1997 Permit § A.1; 2015 Permit § III.B.

Information available to Coastkeeper and CERF indicates that unauthorized NSWDs occur at the Facility, and the Facility has failed to develop and/or implement adequate BMPs necessary to prevent these discharges. For example, the Facility SWPPP notes that "[c]ondensate is generated in the LNG/CNG AST area on the southeastern portion of the facility," and that "[i]f excessive amounts of condensate forms, the water will drain towards the pump located on the

northeastern corner of the bunker, which pumps water to the ground level and can potentially flow to outfall location SW-12." 2015 SWPPP § 4.5. SW-12 is not labeled or mentioned in the Facility SWPPP or site map. Moreover, multiple Facility inspections reference the operation of misters used for odor control purposes. An inspection conducted on September 25, 2018 noted that "a puddle was observed and appeared to have formed from a clogged misting head resulting in a narrow stream dispersion of water (Photo 1). Approximately 15-20 pigeons were observed standing and bathing in the puddle (Photo 2)."[18] The Facility SWPPP fails to acknowledge the use of misters at the Facility. NSWDs resulting from condensate and misters are not from sources listed among the authorized NSWDs in the special conditions section of the Storm Water Permit, and are thus always prohibited. 1997 Permit § A.1; 2015 Permit § III.B.

Coastkeeper and CERF put the El Cajon Facility Owner and/or Operator on notice that the Storm Water Discharge Prohibition is violated each time unauthorized non-storm water is discharged from the Facility. *See* 1997 Permit § D.1; *see also* 2015 Permit § III.B. These Discharge Prohibition violations are ongoing and will continue until the Facility Owner and/or Operator develops and implements BMPs that prevent prohibited unauthorized NSWDs, or obtains separate NPDES permit coverage. Each time the Facility Owner and/or Operator discharges prohibited non-storm water in violation of the Storm Water Permit's Discharge Prohibitions is a separate and distinct violation of the Storm Water Permit and section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Facility Owner and/or Operator has been in violation since August 26, 2014, and Coastkeeper and CERF will update the number and dates of violations when additional information becomes available. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

3.2. <u>Discharges of Polluted Storm Water from the Facility in Violation of Storm Water Permit Discharge Prohibitions</u>.

Section III of the 2015 Permit enumerates several Discharge Prohibitions. Section III.D of the 2015 Permit states that "[d]ischarges that violate any discharge prohibitions contained in applicable Regional Water Board Water Quality Control Plans (Basin Plans), or statewide water quality control plans and policies are prohibited." The San Diego Basin Plan designates beneficial uses for water bodies in the San Diego region and establishes water quality objectives and implementation plans to protect those beneficial uses.[19] The San Diego Basin Plan further establishes certain Waste Discharge Prohibitions.[20] Waste Discharge Prohibition number 5 of the San Diego Basin Plan states, "the discharge of waste to inland surface waters, except in cases where the quality of the discharge complies with the applicable receiving water quality objectives, is prohibited. Allowances for dilution may be made at the discretion of the Regional

[18] Inspection notes and photos from Facility Inspection by the County of San Diego on September 25, 2018, *available at* https://www2.calrecycle.ca.gov/swfacilities/Directory/37-AA-0929/Inspection/439670.

[19] *See* https://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/ for updated Basin Plan.

[20] San Diego Basin Plan, Chapter 4, page 4-19.

Board."[21] "Waste" is defined as, "waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation," which includes discharges of pollutants in storm water.[22] Accordingly, where the "quality of the discharge" does not meet water quality objectives, the discharge, absent an express "allowance for dilution" by the San Diego Regional Board is prohibited by Discharge Prohibition III.D of the 2015 Permit.

Information available to Coastkeeper and CERF, including its review of publicly available information and observations, indicates that no express allowance for dilution has been granted by the Regional Board applicable to the El Cajon Facility's discharges, or to the downstream Receiving Waters. As such, and consistent with Coastkeeper and CERF's review of available information and direct observations, the analytical results of storm water sampling at the Facility demonstrate that the El Cajon Facility Owner and/or Operator has violated and continues to violate Discharge Prohibition III.D of the 2015 Permit by discharging pollutants in excess of water quality objectives listed in the San Diego Basin Plan. The table attached hereto as Exhibit 2 includes sample results of storm water discharges collected and analyzed by the Facility. As demonstrated by the data in Exhibit 2, the El Cajon Facility Owner and/or Operator has failed to discharge pollutants in storm water at or below Basin Plan Water Quality Objectives. For example, the San Diego Basin Plan sets forth a narrative standard for TSS mandating that "[w]aters shall not contain suspended and settleable solids in concentrations of solids that cause nuisance or adversely affect beneficial uses." Yet, the Facility's own storm water monitoring data shows numerous instances of high TSS concentrations, which have the potential to adversely affect the beneficial uses of Receiving Waters. Ex. 2.

The Storm Water Permit Discharge Prohibitions further prohibit storm water discharges and authorized NSWDs which cause or threaten to cause pollution, contamination, or nuisance as defined in Section 13050 of the California Water Code. 1997 Permit § A.2; 2015 Permit § III.C. The California Water Code defines "contamination" as "an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease." "Pollution" is defined as "an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects . . . [t]he waters for beneficial uses."

Information available to Coastkeeper and CERF indicates that the El Cajon Facility has discharged, and continues to discharge, numerous pollutants in concentrations that cause or threaten to cause pollution, contamination, or nuisance in and around Receiving Waters. For example, storm water monitoring data collected by Coastkeeper on May 16, 2019 at or near SW-1 indicates that storm water at the Facility contains high concentrations of aluminum, copper, iron, lead, zinc, N+N, phosphorus, total coliform, fecal coliform, and enterococcus. *See* Ex. 1. This sampling data shows that concentrations for each of the aforementioned pollutants far exceed various water quality objectives, benchmarks, and other standards which were promulgated to protect human health and the environment, as well as the Beneficial Uses of

[21] *Id.* at page 4-20 (Waste Discharge Prohibition 5).
[22] California Water Code, § 13050(d) (emphasis added).

Receiving Waters. As such, the El Cajon Facility's discharges of polluted storm water have violated the Storm Water Permit's Discharge Prohibition III.C.

Furthermore, as discussed in Section 3.6.3, *infra*, information available to Coastkeeper and CERF indicates that the El Cajon Facility Owner and/or Operator has failed and continues to fail to analyze the Facility's storm water discharges for numerous pollutants required by the Storm Water Permit. This information further indicates that the Facility has discharged and continues to discharge numerous pollutants in concentrations exceeding water quality objectives in violation of Discharge Prohibition III.D, and which cause or threaten to cause pollution, contamination, or nuisance in violation of Discharge Prohibition III.C.

Coastkeeper and CERF put the El Cajon Facility Owner and/or Operator on notice that the Storm Water Permit Discharge Prohibition is violated each time storm water discharges from the Facility. *See* Exhibit 3 (setting forth dates of all precipitation events during the past five years).[23] These Discharge Prohibition violations are ongoing and will continue every time the Facility Owner and/or Operator discharges polluted storm water in violation of Discharge Prohibitions III.C or III.D of the 2015 Permit. Each time the Facility Owner and/or Operator discharges polluted storm water in violation of Discharge Prohibitions III.C or III.D of the 2015 Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Facility Owner and/or Operator has been in violation since August 26, 2014, and Coastkeeper and CERF will update the dates of violations when additional information and data become available. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

Further, Coastkeeper and CERF put the El Cajon Facility Owner and/or Operator on notice that Discharge Prohibitions III.C and III.D are independent Storm Water Permit requirements that must be complied with, and that carrying out the iterative process triggered by exceedances of the Numeric Action Levels ("NALs") listed at Table 2 of the 2015 Permit does not amount to compliance with the Discharge Prohibition provisions.

3.3. Discharges of Polluted Storm Water from the Facility in Violation of Storm Water Permit Effluent Limitation.

The Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve Best Available Technology Economically Achievable ("BAT") for toxic and non-conventional pollutants and Best Conventional Pollutant Control Technology ("BCT") for conventional pollutants. 1997 Permit § B.3; 2015 Permit § V.A.

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[23] Exhibit 3 includes the dates of all precipitation events recorded during the past five years, and the corresponding quantity of precipitation for each such event. The data in Exhibit 3 was recorded by the National Oceanic & Atmospheric Administration at the weather monitoring station geographically nearest to the Facility with complete precipitation records. Coastkeeper and CERF will include additional dates of rain events when that information becomes available.

The EPA's NPDES Storm Water Multi-Sector General Permit for Industrial Activities ("MSGP") includes numeric benchmarks for pollutant concentrations in storm water discharges ("EPA Benchmarks"). EPA Benchmarks are relevant and objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B.3 of the 1997 Permit and Effluent Limitation V.A of the 2015 Permit.[24] As such, discharges from an industrial Facility containing pollutant concentrations that exceed EPA Benchmarks indicate that the Facility has not developed and/or implemented BMPs that meet BAT for toxic pollutants and BCT for conventional pollutants.[25]

Information available to Coastkeeper and CERF, including its review of publicly available information and observations, indicates that BMPs that achieve BAT/BCT have not been developed and/or implemented at the El Cajon Facility. Consistent with Coastkeeper and CERF's review of available information and direct observations, the Facility's storm water monitoring data demonstrates that Facility discharges have exceeded EPA Benchmarks, indicating that the Facility has failed and continues to fail to develop and/or implement BMPs as required to achieve compliance with the BAT/BCT standards. For example, storm water samples collected by the Facility on February 27, 2018, January 9, 2018, January 23, 2017, and December 16, 2016 reflected TSS concentrations above the EPA Benchmark for TSS of 100 mg/L. *See* Ex. 2.

As discussed in Section 3.6.3, *infra*, information available to Coastkeeper and CERF indicates that the El Cajon Facility Owner and/or Operator has failed and continues to fail to analyze storm water discharged from the Facility for numerous pollutants that result from the Facility's industrial operations. For example, storm water monitoring data collected by Coastkeeper on May 16, 2019 at or near SW-1 indicates that storm water at the Facility contains high concentrations of aluminum, copper, iron, lead, zinc, N+N, and phosphorus, in excess of EPA Benchmarks. The 2015 SWPPP fails to acknowledge the existence of any of these pollutants at the Facility. As such, in addition to TSS, the El Cajon Facility likely discharges numerous pollutants in concentrations exceeding EPA benchmarks, indicating that the Facility has failed to develop and/or implement BMPs as required to achieve compliance with the BAT/BCT standards.

Coastkeeper and CERF put the El Cajon Facility Owner and/or Operator on notice that the Storm Water Permit Effluent Limitation is violated each time storm water discharges from the Facility. *See* Ex. 3. These discharge violations are ongoing and will continue every time the Facility Owner and/or Operator discharges polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Each time the Facility Owner and/or Operator discharges polluted storm water in violation of Effluent

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[24] *See United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) Authorization to Discharge Under the National Pollutant Discharge Elimination System*, as modified effective February 26, 2009, Fact Sheet at 106; *see also* 65 Federal Register 64839 (2000).

[25] *Santa Monica Baykeeper v. Kramer Metals, Inc.*, 619 F.Supp.2d 914 (C.D. Cal. 2009).

Limitation B.3 of the 1997 Permit and Effluent Limitation V.A of the 2015 Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Facility Owner and/or Operator has been in violation since August 26, 2014, and Coastkeeper and CERF will update the dates of violations when additional information and data become available. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

Further, Coastkeeper and CERF put the Facility Owner and/or Operator on notice that the 2015 Permit Effluent Limitation V.A is an independent requirement that must be complied with, and that carrying out the iterative process triggered by exceedances of the NALs listed at Table 2 of the 2015 Permit does not amount to compliance with Effluent Limitation V.A.

3.4. Discharges of Polluted Storm Water from the Facility in Violation of Storm Water Permit Receiving Water Limitations.

Receiving Water Limitation C.2 of the 1997 Permit prohibits storm water discharges and authorized NSWDs that cause or contribute to an exceedance of an applicable Water Quality Standard ("WQS").[26] The 2015 Permit includes the same receiving water limitation. 2015 Permit § VI.A. Discharges that contain pollutants in excess of an applicable WQS violate the Storm Water Permit Receiving Water Limitations. 1997 Permit § C.2; 2015 Permit § VI.A.

Receiving Water Limitation C.1 of the 1997 Permit prohibits storm water discharges and authorized NSWDs to surface water that adversely impact human health or the environment. The 2015 Permit includes the same receiving water limitation. 2015 Permit § VI.B. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of the Storm Water Permit Receiving Water Limitation. 1997 Permit § C.1; 2015 Permit § VI.B.

Storm water sampling at the Facility demonstrates that its discharges contain concentrations of pollutants that cause or contribute to a violation of an applicable WQS in violation of the Storm Water Permit's Receiving Water Limitations. *See* 1997 Permit § C.2; 2015 Permit § VI.A. For example, the San Diego Basin Plan sets forth a narrative standard for TSS mandating that "[w]aters shall not contain suspended and settleable solids in concentrations of solids that cause nuisance or adversely affect beneficial uses." Yet, the Facility's own storm

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[26] The Basin Plan designates Beneficial Uses for the Receiving Waters. Water quality standards are pollutant concentration levels determined by the state or federal agencies to be protective of designated Beneficial Uses. Discharges above water quality standards contribute to the impairment of Receiving Waters' Beneficial Uses. Applicable water quality standards include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 ("CTR"), and water quality objectives in the Basin Plan. Industrial storm water discharges must strictly comply with water quality standards, including those criteria listed in the applicable basin plan. *See Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166-67 (9th Cir. 1999).

water monitoring data shows numerous instances of high TSS concentrations, which have the potential to adversely affect the beneficial uses of Receiving Waters.

As explained herein, the Receiving Waters are impaired, and thus unable to support the designated Beneficial Uses, for some of the same pollutants discharged by the Facility. Forester Creek and the San Diego River are impaired for benthic community effects. The Basin Plan explains that "[s]uspended and settleable solids are deleterious to benthic organisms and may cause the formation of anaerobic conditions. They can clog fish gills and interfere with respiration in aquatic fauna. They also screen out light, hindering photosynthesis and normal aquatic plant growth and development." Basin Plan at 3-31. The Facility's storm water discharges containing elevated concentrations of TSS in excess of the Basin Plan Water Quality Objective cause and/or contribute to the benthic community effects impairments of Forester Creek and the San Diego River.

Information available to Coastkeeper and CERF indicates that the Facility discharges elevated concentrations of indicator bacteria such as fecal coliform, E. coil, and enterococcus, as well as nutrients such as nitrogen and phosphorus, in excess of the Basin Plan Objectives. For example, storm water monitoring data collected by Coastkeeper on May 16, 2019 at or near SW-1 showed concentrations of total coliform, fecal coliform, and enterococcus at 1,600,000 MPN/100ml. By comparison, the Basin Plan Water Quality Objective for fecal coliform is 400 MPN/100 ml, and for enterococcus is 61 MPN/100 ml. Coastkeeper's sampling data from May 16, 2019 further shows N+N at 1.24 mg/L exceeding the Basin Plan Objective of 1.0 mg/L, and phosphorus at 9.12 mg/L, exceeding the Basin Plan Objective of 0.1 mg/L.

Forester Creek is impaired for indicator bacteria (including E. Coli, fecal coliform, and total coliform), nitrogen, and phosphorus, and the lower reach of the San Diego River is impaired for indicator bacteria (enterococcus), nitrogen, and phosphorus. As the Facility likely discharges these pollutants in excess of the Basin Plan Water Quality Objectives, such discharges cause and/or contribute to multiple impairments of the Receiving Waters.

Information available to Coastkeeper and CERF indicates that the Facility discharges elevated concentrations of several toxic metals in excess of CTR standards. For example, storm water monitoring data collected by Coastkeeper on May 16, 2019 at or near SW-1 showed concentrations of copper at 0.358 mg/L exceeding the CTR standard of 0.13 mg/L; lead at 0.157 mg/L exceeding the CTR standard of 0.065 mg/L; and zinc at 3.12 mg/L exceeding the CTR standard of 0.12 mg/L. Thus, the Facility's likely discharges of these toxic metals in excess of the CTR standards causes and/or contributes to the San Diego River's toxicity impairment.

The CTR and Basin Plan are applicable WQSs under the Storm Water Permit. Thus, discharges from the Facility containing concentrations of pollutants in exceedance of WQSs, cause and/or contribute to the impairments of Receiving Waters in violation of Receiving Water Limitations of the Storm Water Permit. 1997 Permit § C.2; 2015 Permit § VI.A. Discharges of elevated concentrations of pollutants in the Facility's storm water also adversely impact human health. These harmful discharges from the Facility are also violations of the Storm Water Permit Receiving Water Limitations. *See* 1997 Permit § C.1; 2015 Permit § VI.B.

Coastkeeper and CERF put the El Cajon Facility Owner and/or Operator on notice that Storm Water Permit Receiving Water Limitations are violated each time polluted storm water discharges from the Facility. *See* Ex. 3. Each time discharges of storm water from the Facility cause and/or contribute to a violation of an applicable WQS, it is a separate and distinct violation of Receiving Water Limitation C.2 of the 1997 Permit, Receiving Water Limitation VI.A of the 2015 Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Each time discharges of storm water from the Facility adversely impact human health or the environment, it is a separate and distinct violation of Receiving Water Limitation C.1 of the 1997 Permit, Receiving Water Limitation VI.B of the 2015 Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). These discharge violations are ongoing and will continue every time contaminated storm water is discharged in violation of the Storm Water Permit Receiving Water Limitations. The Facility Owner and/or Operator has been in violation since August 26, 2014, and Coastkeeper and CERF will update the dates of violation when additional information and data becomes available. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

Further, Coastkeeper and CERF put the Facility Owner and/or Operator on notice that Receiving Water Limitations are independent Storm Water Permit requirements that must be complied with, and that carrying out the iterative process triggered by exceedances of the NALs listed at Table 2 of the 2015 Permit does not amount to compliance with the Receiving Water Limitations.

3.5. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan.

The Storm Water Permit requires permittees to develop and implement a Storm Water Pollution Prevention Plan prior to conducting industrial activities. A permittee has an ongoing obligation to revise the SWPPP as necessary to ensure compliance with the Storm Water Permit. The specific SWPPP requirements of the 1997 Permit and the 2015 Permit are set out below.

3.5.1. 1997 Permit SWPPP Requirements.

Section A.1 and Provision E.2 of the 1997 Permit require dischargers to have developed and implemented a SWPPP prior to beginning industrial activities that meets all of the requirements of the 1997 Permit. The objectives of the 1997 Permit SWPPP requirements are to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Facility and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. 1997 Permit § A.2. These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations.

To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A.9 of the 1997 Permit, and must be revised as necessary to ensure compliance with the Storm Water Permit. 1997 Permit, Sections A.9–10.

Sections A.3–10 of the 1997 Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a site map showing the Facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, areas of actual and potential pollutant contact, areas of industrial activity, and other features of the Facility and its industrial activities (§ A.4); a list of significant materials handled and stored at the site (§ A.5); a description of potential pollutant sources, including industrial processes, material handling and storage areas, dust and particulate generating activities, significant spills and leaks, NSWDs and their sources, and locations where soil erosion may occur (§ A.6).

Sections A.7–8 of the 1997 Permit require an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized NSWDs, including structural BMPs where non-structural BMPs are not effective.

3.5.2. 2015 Permit SWPPP Requirements.

As with the SWPPP requirements of the 1997 Permit, Sections X.A–H of the 2015 Permit require dischargers to have developed and implemented a SWPPP that meets all of the requirements of the 2015 Permit. *See also* 2015 Permit, Appendix 1. The objective of the SWPPP requirements are still to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. 2015 Permit § X.C.

The SWPPP must include, among other things and consistent with the 1997 Permit, a narrative description and summary of all industrial activity, potential sources of pollutants, and potential pollutants; a site map indicating the storm water conveyance system, points of discharge, direction of flow, areas of actual and potential pollutant contact, nearby water bodies, and pollutant control measures; a description of the BMPs developed and implemented to reduce or prevent pollutants in storm water discharges and authorized NSWDs necessary to comply with the Storm Water Permit; the identification of NSWDs and the elimination of unauthorized NSWDs; the location where significant materials are being shipped, stored, received, and handled, as well as the typical quantities of such materials and the frequency with which they are handled; a description of dust and particulate-generating activities; and the identification of individuals and their current responsibilities for developing and implementing the SWPPP. 2015 Permit §§ X.A–H.

Further, the 2015 Permit requires the discharger to evaluate the SWPPP on an annual basis and revise it as necessary to ensure compliance with the Storm Water Permit. 2015 Permit §§ X.A–B. Like the 1997 Permit, the 2015 Permit also requires that the discharger conduct an annual comprehensive site compliance evaluation that includes a review of all visual observation records, inspection reports and sampling and analysis results; a visual inspection of all potential pollutant sources for evidence of, or the potential for, pollutants entering the drainage system; a review and evaluation of all BMPs to determine whether the BMPs are adequate, properly

implemented and maintained, or whether additional BMPs are needed; and a visual inspection of equipment needed to implement the SWPPP. 2015 Permit §§ X.B, XV.

3.5.3. The El Cajon Facility Owner and/or Operator Has Violated and Continues to Violate the Storm Water Permit SWPPP Requirements.

The El Cajon Facility Owner and/or Operator has conducted and continues to conduct operations at the Facility with an inadequately developed and/or implemented SWPPP. First, as noted in Section 1.3, *supra*, the Facility SWPPP fails to identify the proper SIC codes that apply to the Facility's multiple industrial operations. The Facility's MSW hauling vehicle and equipment maintenance, and the storage of such hauling vehicles and other waste hauling equipment at the Facility indicates that SIC code 4231, terminal and joint terminal maintenance facilities for motor freight transportation, applies to the Facility. The Facility's waste and recycling transfer operations indicate that SIC code 4953, refuse systems, also applies to the Facility's industrial operations. However, the 2015 SWPPP fails to identify either 4231 or 4953 as SIC codes applicable to the Facility.

The SWPPP also fails to identify all activities pertaining to the Facility's industrial activities. For example, as noted in Section 3.1, *supra*, multiple Facility inspections conducted by the County of San Diego reference the operation of misters used for odor control purposes, yet the Facility SWPPP fails to acknowledge the use of misters at the Facility. The site map also fails to label all pollutant control measures implemented at the Facility. As such, the Facility SWPPP and site map have failed to accurately identify, label, and describe all industrial activities and pollutant control measures at the Facility in violation of the Storm Water Permit. *See e.g.*, 2015 Permit, §§ X.E.3.c, X.G.

The El Cajon Facility Owner and/or Operator has failed and continues to fail to develop and/or implement a SWPPP that includes an adequate pollutant source assessment. Section X.G.2 of the 2015 Permit requires dischargers to "ensure that the SWPPP includes a *narrative* assessment of all areas of industrial activity with potential industrial pollutant sources." (emphasis added). This assessment shall include "pollutants likely to be present in industrial storm water discharges and authorized NSWDs," (§ X.G.2.a.ii), "[t]he degree to which the pollutants associated with those materials may be exposed to, and mobilized by contact with, storm water," (§ X.G.2.a.iv), "[t]he direct and indirect pathways by which pollutants may be exposed to storm water or authorized NSWDs," (§ X.G.2.a.v), and "[t]he effectiveness of existing BMPs to reduce or prevent pollutants in industrial storm water discharges and authorized NSWDs," (§ X.G.2.a.vii), among other requirements.

The El Cajon Facility SWPPP fails to comply with any of the aforementioned requirements of Section X.G.2 of the 2015 Permit. As discussed in Section 2.2, *supra*, the 2015 El Cajon Facility SWPPP states that the only pollutants of concern at the Facility are TSS and O&G. Throughout the 2015 SWPPP's description of all industrial process, the SWPPP identifies only TSS and O&G as "[p]otential pollutants of concern from recycling processes," and from "maintenance activities." 2015 SWPPP §§ 4.2.1–2. The SWPPP fails to identify any potential pollutants associated with any other industrial activity. Furthermore, the SWPPP's "Pollutant

Source Assessment" claims that "[t]here are no known industrial pollutants related to the receiving waters with 303(d)-listed impairments," including "dissolved oxygen, phosphorus, nitrogen, sulfates, selenium, total dissolved solids, high pH, turbidity, and fecal coliform." 2015 SWPPP § 4.8.

Information available to Coastkeeper and CERF indicates that numerous pollutants are present in the Facility's storm water discharges in addition to TSS and O&G. As discussed in Section 2.2, *supra*, storm water sampling data collected by Coastkeeper on May 16, 2019, at or near Facility discharge location SW-1, evidences high concentrations of aluminum, copper, iron, lead, zinc, N+N, phosphorus, total coliform, fecal coliform, and enterococcus, all of which exceeded various effluent limitations, water quality objectives, and receiving water limitations. Ex. 1. Additionally, pollutants commonly present in storm water discharged from facilities similar to the El Cajon Facility include: pathogens such as enterococcus, E. coli, and fecal coliform; excessive nutrients such as ammonia as nitrogen, N+N, total nitrogen, and phosphorus; metals such as aluminum, lead, zinc, manganese, selenium, copper, and iron; and dissolved oxygen, among others. The 2015 SWPPP fails to assess, or even acknowledge, any of these pollutants in violation of the Storm Water Permit.

Information from Facility inspections also indicates that the Facility SWPPP fails to account for numerous pollutants present at the Facility. As discussed in Section 2.2, *supra*, Facility inspection notes and photos from the County of San Diego show that the Facility handles significant quantities of MSW, green waste, e-waste, and other mixed recyclables, and that debris associated with these waste and recyclables streams is scattered about Facility.[27] The inspections further indicate that dried and fresh bird droppings were a persistent issue, noting that "dried bird droppings can harbor human pathogens."[28] E-waste contains high levels of toxic materials such as lead, mercury, cadmium and arsenic, which can leach into the environment, and when mishandled, can lead to irreversible health effects, including cancers, miscarriages, neurological damage and diminished IQs.[29] CRTs, in particular, contain extremely high quantities of lead.[30] However, the Facility SWPPP fails to assess any of these pollutants.

Furthermore, the Facility SWPPP's own description of industrial activities and materials indicates the presence of additional pollutants beyond TSS, O&G, and pH. As noted in Section

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[27] *See* inspection notes and photos from Facility Inspection by the County of San Diego on January 23, 2019, *available at* https://www2.calrecycle.ca.gov/swfacilities/Directory/37-AA-0929/Inspection/444276.

[28] *See* inspection notes and photos from Facility Inspection by the County of San Diego on March 25, 2019, *available at* https://www2.calrecycle.ca.gov/swfacilities/Directory/37-AA-0929/Inspection/446568.

[29] U.S. EPA Website, "Cleaning Up Electronic Waste (E-Waste)," *available at* https://www.epa.gov/international-cooperation/cleaning-electronic-waste-e-waste.

[30] U.S. EPA Website, "Final Rule: Streamlined Management Requirements for Recycling of Used Cathode Ray Tubes (CRTs) and Glass Removed from CRTs," *available at* https://www.epa.gov/hw/final-rule-streamlined-management-requirements-recycling-used-cathode-ray-tubes-crts-and-glass.

2.2, *supra*, the 2015 SWPPP acknowledges that "materials in the Transfer Building can migrate outside when the vehicles are loading or unloading because of wind or track-out and may be exposed to stormwater" (2105 SWPPP § 4.1.1); "the buy-back center is not under cover and is exposed to stormwater; therefore, paper, cardboard, aluminum, plastic, and glass debris may be exposed to stormwater" (*id.*); and "loading activities for household hazardous wastes and e-wastes are not conducted under cover and are potentially exposed to stormwater" (*id.* § 4.1.3). The various waste and recycling streams identified in these processes typically involve pollutants such as pathogens and bacteria, nutrients, toxic metals, and other potentially toxic substances. The 2015 SWPPP also identifies "organics" as one of the "most likely sources of stormwater pollutants" at the Facility. *Id.* § 4.2. "Organics" may refer to organic materials such as food waste, yard trimmings, soiled paper, and wood waste,[31] or to synthetic organic compounds used in a variety of industrial and manufacturing materials including paint, adhesives, cleaners, solvents, sealants, or pharmaceuticals.[32] Under either definition, the SWPPP's acknowledgement of "organics" indicates that additional pollutants are present at the Facility. Given the activities, operations, and materials present at this Facility as described *supra*, the 2015 SWPPP pollutant source assessment's conclusion that only TSS, O&G, and pH affecting substances could be discharged from the Facility is absurd. The 2015 El Cajon Facility SWPPP fails to adequately and accurately assess the vast majority of the pollutants present at the Facility in violation of the Storm Water Permit's SWPPP requirements.

The El Cajon Facility Owner and/or Operator has failed and continues to fail to develop and/or implement a SWPPP that contains BMPs to prevent the exposure of pollutants and pollutant sources to storm water and the subsequent discharge of polluted storm water from the Facility, as required by the Storm Water Permit. The BMPs' inadequacies are further documented by the continuous and ongoing discharge of storm water containing pollutant levels that exceed EPA Benchmarks and applicable WQSs, which indicate that the Facility's BMPs are failing to meet BAT/BCT requirements. *See, e.g.,* Ex. 2.

The El Cajon Facility Owner and/or Operator has also failed to revise the Facility's SWPPP to ensure compliance with the Storm Water Permit. Despite the significant concentrations of pollutants in the Facility's storm water discharges each year, information available to Coastkeeper and CERF indicates that the Facility SWPPP has remained the same since June 2015, and has not been revised to include additional BMPs to eliminate or reduce these pollutants, as required by the Storm Water Permit.

Accordingly, the El Cajon Facility Owner and/or Operator has failed and continues to fail to adequately develop, implement, and/or revise the Facility SWPPP in violation of the Storm Water Permit. Every day the Facility operates with an inadequately developed and/or implemented SWPPP, and/or with an improperly revised SWPPP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The Facility Owner and/or

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[31] U.S. EPA archived website, Region 9, "Organics," *available at* https://archive.epa.gov/region9/organics/web/html/index.html.
[32] California Stormwater Quality Association, Stormwater Best Management Practice Handbook, definition of "organics."

Operator has been in daily and continuous violation of the Storm Water Permit SWPPP requirements since at least August 26, 2014. These violations are ongoing, and Coastkeeper and CERF will include additional violations when information becomes available. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

3.6. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program.

The Storm Water Permit requires permittees to develop and implement a storm water monitoring and reporting program ("M&RP") prior to conducting industrial activities. A permittee has an ongoing obligation to revise the M&RP as necessary to ensure compliance with the Storm Water Permit. The specific M&RP requirements of the 1997 Permit and the 2015 Permit are set out below.

3.6.1. 1997 Permit M&RP Requirements.

Section B.1 and Provision E.3 of the 1997 Permit require Facility operators to develop and implement an adequate M&RP prior to the commencement of industrial activities at a Facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a Facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* 1997 Permit § B2.

The M&RP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the Facility, and must be evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *Id.* §§ B.3–16. Dischargers must revise the SWPPP in response to their M&RP observations to ensure that BMPs are effectively reducing and/or eliminating pollutants at the Facility. *Id.* § B.4. Sections B.5 and B.7 of the 1997 Permit require dischargers to visually observe and collect samples of storm water from all locations where storm water is discharged.

Sections B.5 and B.7 of the 1997 Storm Water Permit require dischargers to visually observe and collect samples of storm water from all drainage areas and discharge locations where storm water is discharged. Under Section B.5 of the Storm Water Permit, a permittee is required to collect at least two (2) samples from each discharge location at the Facility during the Wet Season. Storm water samples must be analyzed for TSS, pH, SC, total organic carbon or O&G, and other pollutants that are likely to be present in the Facility's discharges in significant quantities. *Id.* § B.5.c. Finally, permittees must identify and use analytical method detection limits sufficient to determine compliance with the 1997 Permit's monitoring program objectives and specifically, the Effluent Limitations and Receiving Water Limitations. *Id.* § B.10.iii.

3.6.2. 2015 Permit M&RP Requirements.

As with the 1997 M&RP requirements, Sections X.I and XI.A–D of the 2015 Permit require Facility operators to develop and implement an adequate M&RP that meets all of the requirements of the 2015 Permit. The objective of the M&RP is still to detect and measure the concentrations of pollutants in a Facility's discharge, and to ensure compliance with the 2015 Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. 2015 Permit § XI. An adequate M&RP ensures that BMPs are effectively reducing and/or eliminating pollutants at the Facility, and is evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *Id.*

As an *increase* in frequency of monitoring requirements, Sections XI.B.1–5 of the 2015 Permit requires permittees to collect storm water discharge samples from a qualifying storm event[33] as follows: 1) from each drainage area at all discharge locations, 2) from two (2) storm events within the first half of each Reporting Year[34](July 1 to December 31), 3) from two (2) storm events within the second half of each Reporting Year (January 1 to June 30), and 4) within four hours of the start of a discharge, or the start of Facility operations if the qualifying storm event occurs within the previous 12-hour period. The 2015 Permit requires, among other things, that permittees must submit *all sampling* and analytical results for all samples via SMARTS within 30 days of obtaining all results for each sampling event. *Id.* § XI.B.11 (emphasis added).

The parameters to be analyzed are also consistent with the 1997 Permit, however, the 2015 Permit no longer requires SC to be analyzed. Sections XI.B.6.a–b of the 2015 Permit requires permittees to analyze samples for TSS, O&G, and pH. Section XI.B.6.c–d of the 2015 Permit requires permittees to analyze samples for all pollutants associated with the Discharger's industrial activities. Specifically, the 2015 Permit requires Facility Owners and/or Operators to sample and analyze parameters on a Facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment. *Id.* § XI.B.6.c. Section XI.B.6.e of the 2015 Permit also requires dischargers to analyze storm water samples for additional applicable industrial parameters related to receiving waters with a Clean Water Act Section 303(d) listed impairment(s), or approved Total Maximum Daily Loads.

3.6.3. <u>The Facility Owner and/or Operator Has Violated and Continues to Violate the Storm Water Permit M&RP Requirements</u>.

The El Cajon Facility Owner and/or Operator has been and continues to conduct operations at the Facility with an inadequately developed, implemented, and/or revised M&RP. First, the Facility Owner and/or Operator has failed and continues to fail to sample and analyze storm water discharges for all parameters required by the Storm Water Permit. The Facility analyzes its storm water samples only for the minimum parameters of TSS, O&G, and pH. In what the SWPPP itself characterizes as an "initial desktop assessment," the Facility M&RP (also

[33] The 2015 Permit defines a qualifying storm event as one that produces a discharge for at least one drainage area, and is preceded by 48-hours with no discharge from any drainage areas. 2015 Permit, Section XI(B)(1).
[34] A Reporting Year replaced the 1997 permit term Wet Season, and is defined as July 1 through June 30. 2015 Permit, Findings, ¶ 62(b).

referred to as the "MIP") states that "there are no additional parameters required to be included in the MIP (Section 8) at this time to indicate the presence of listed impairments (dissolved oxygen, phosphorus, nitrogen, sulfates, selenium, total dissolved solids, high pH, turbidity, and fecal coliform) in industrial stormwater discharges from the facility." 2015 SWPPP § 4.8. As discussed in Sections 2.2 and 3.5.3, *supra*, the El Cajon Facility Owner and/or Operator fails to acknowledge or assess numerous pollutants present at the Facility. As a result, the Facility Owner and/or Operator also fails to analyze storm water samples for these same pollutants. Therefore, the Facility Owner and/or Operator has failed and continues to fail to sample and analyze for all parameters required by the Storm Water Permit. *See* 2015 Permit §§ XI.B.6.c, XI.B.6.e.

In addition, the El Cajon Facility Owner and/or Operator has failed and continues to fail to develop and/or implement a M&RP that requires the collection of storm water samples from all discharge locations at the Facility in violation of Section XI.B.4 of the 2015 Permit. Section XI.B.4 of the 2015 Permit specifically requires dischargers to collect samples "from *each drainage area* at *all* discharge locations." (emphasis added). While Section B.7.d of the 1997 Permit and Section XI.C.4 of the 2015 Permit allow permittees to reduce the number of locations to be sampled, there is no indication that the Facility Owner and/or Operator has complied with the requirements of Section B.7.d of the 1997 Permit or Section XI.C.4 to justify sampling a reduced number of discharge locations at the Facility. The Facility SWPPP reports that the Facility has twelve industrial stormwater discharge locations and one non-industrial discharge location. 2015 SWPPP § 8.1. Eleven of the discharge points are labeled SW-1 through SW-11. However, on February 27, 2018, the Facility only collected samples from SW-2 through SW-9. Likewise, on November 29, 2018, the Facility only collected samples from SW-1 through SW-8. There are no detention basins at the Facility, and the SWPPP fails to account for why storm water would discharge from certain points at the Facility and not others. Therefore, the El Cajon Facility is in violation of the Storm Water Permit for failing to collect samples from all discharge locations.

The El Cajon Facility Owner and/or Operator also failed to collect the required number of storm water samples for each reporting period. For example, while the Storm Water Permit requires Permittees to collect four samples each reporting period, the Facility only collected three samples during the 2018-2019 reporting period, despite the occurrence of numerous QSEs during that reporting period. *See* Ex. 3.

Finally, the Storm Water Permit requires dischargers to conduct visual observations of storm water discharges, of authorized and unauthorized NSWDs, and of BMPs. Based on information available to Coastkeeper and CERF, including Annual Reports, the El Cajon Facility Owner and/or Operator fails to consistently, and/or adequately, conduct the required discharge observations and monitoring of BMPs.

Accordingly, the El Cajon Facility Owner and/or Operator has failed and continues to fail to adequately develop, implement, and/or revise a M&RP, in violation of the Storm Water Permit. Every day the Facility operates with an inadequately developed and/or implemented M&RP, or with an improperly revised M&RP is a separate and distinct violation of the Storm

Water Permit and the Clean Water Act. The El Cajon Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit M&RP requirements since at least August 26, 2014. These violations are ongoing, and Coastkeeper and CERF will include additional violations when information becomes available. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

3.7. Failure to Comply with the Storm Water Permit's Reporting Requirements.

Section B.14 of the 1997 Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. Section B.14 requires that the Annual Report include a summary of visual observations and sampling results, an evaluation of the visual observation and sampling results, the laboratory reports of sample analysis, the annual comprehensive site compliance evaluation report, an explanation of why a permittee did not implement any activities required, and other information specified in Section B.13. The 2015 Permit includes the same reporting requirements with the Annual Report due July 15. *See* 2015 Permit § XVI.

The El Cajon Facility Owner and/or Operator has failed and continues to fail to submit Annual Reports that comply with the Storm Water Permit reporting requirements. For example, the Annual Reports for the reporting periods of 2015-16, 2016-17, 2017-18, and 2018-19 all state that there are only nine discharge points at the Facility. However, the 2015 SWPPP and site map indicate that there are 13 total discharge points. Furthermore, these same annual reports state that low dissolved oxygen, phosphorus, nitrogen, manganese, selenium, total dissolved solids, high pH, enterococcus, and fecal coliform are not present at the Facility. However, as discussed in Section 2.2 and 3.5.3, *supra*, all of these pollutants are likely present at the Facility, and Coastkeeper's sampling data indicates that most of these pollutants were found in high concentrations in the Facility's storm water.

In each Annual Report since the filing of the 2013-14 Annual Report, the El Cajon Facility Owner and/or Operator certifies that: (1) a complete Annual Comprehensive Site Compliance Evaluation was conducted as required by the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, information available to Coastkeeper and CERF indicates that these certifications are erroneous. For example, storm water samples collected from the Facility contain concentrations of pollutants above EPA Benchmarks and WQSs, thus demonstrating that the Facility BMPs do not adequately address existing potential pollutant sources. Further, as discussed in Sections 3.5.3 and 3.6.3, the Facility's SWPPPs do not include many elements required by the Storm Water Permit, and thus it is erroneous to certify that the SWPPP complies with the Storm Water Permit.

In addition, the El Cajon Facility Owner and/or Operator has not accurately reported non-compliance, as required by the Storm Water Permit. *See* 1997 Permit § C.11.d; 2015 Permit § XVI.B.2.

Given that the El Cajon Facility Owner and/or Operator has submitted incomplete and/or incorrect Annual Reports that fail to comply with the Storm Water Permit, the Facility is in daily violation of the Storm Water Permit. Every day the Facility Owner and/or Operator conducts operations at the Facility without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's reporting requirements every day since at least August 26, 2014. These violations are ongoing, and Coastkeeper and CERF will include additional violations when information becomes available. The Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since August 26, 2014.

4. RELIEF SOUGHT FOR VIOLATIONS OF THE CLEAN WATER ACT

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five years prior to the date of the Notice Letter. These provisions of law authorize civil penalties of $37,500.00 per day per violation for all Clean Water Act violations after January 12, 2009 and $54,833.00 per day per violation for violations that occurred after November 2, 2015.

In addition to civil penalties, Coastkeeper and CERF will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), Coastkeeper and CERF will seek to recover their litigation costs, including attorneys' and experts' fees.

5. CONCLUSION

Coastkeeper and CERF are willing to discuss effective remedies for the violations described in this Notice Letter. However, upon expiration of the 60-day notice period, Coastkeeper and CERF intend to file a citizen suit under Section 505(a) of the Clean Water Act for the El Cajon Facility Owner and/or Operator's violations of the Storm Water Permit.

If you wish to pursue settlement discussions, please contact Coastkeeper and CERFs legal counsel:

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Patrick McDonough
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San Diego Coastkeeper
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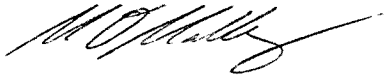
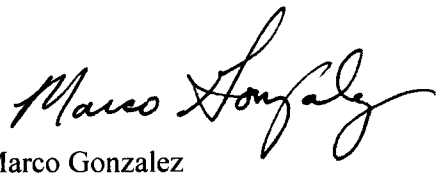
1140 South Coast Highway 101
Encinitas, California 92024
Tel: 760-942-8505

Sincerely,



Matt O'Malley
Patrick McDonough
Attorneys for San Diego Coastkeeper



Marco Gonzalez
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SERVICE LIST

VIA U.S. MAIL

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EXHIBIT 1

EnviroMatrix Analytical, Inc.

01 June 2019

San Diego Coastkeeper
Attn: Patrick McDonough
2825 Dewey Road, Suite 207
San Diego, CA 92106

EMA Log #: 19E0612

Project Name: Stormwater 2019
Project Desc./#: El Cajon Hauling SW-1

Enclosed are the results of analyses for samples received by the laboratory on 05/16/19 13:00. Samples were analyzed pursuant to client request utilizing EPA or other ELAP approved methodologies. I certify that this data is in compliance both technically and for completeness.

Dan Verdon
Laboratory Director

CA ELAP Certification #: 2564

4340 Viewridge Avenue, Suite A - San Diego, California 92123 - (858) 560-7717 - Fax (858) 560-7763
Analytical Chemistry Laboratory

Client Name: San Diego Coastkeeper
Project Name: Stormwater 2019

EMA Log #: 19E0612

ANALYTICAL REPORT FOR SAMPLES

Sample ID	Laboratory ID	Matrix	Date Sampled	Date Received
El Cajon Hauling SW-1	19E0612-01	Stormwater	05/16/19 12:03	05/16/19 13:00

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.

Client Name: San Diego Coastkeeper
Project Name: Stormwater 2019

EMA Log #: 19E0612

Total Metals by EPA 200 Series Methods

Analyte	Result	MDL	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
El Cajon Hauling SW-1 (19E0612-01) Stormwater Sampled: 05/16/19 12:03 Received: 05/16/19 13:00										
Aluminum	**24.5**	0.10	1.00	mg/l	1	9053033	05/30/19	05/30/19	EPA 200.7	
Copper	**0.358**	0.009	0.050	"	"	"	"	"	"	
Iron	**47.4**	0.050	0.100	"	"	"	"	"	"	
Lead	**0.157**	0.008	0.050	"	"	"	"	"	"	
Selenium	ND	0.005	0.010	"	"	"	"	05/31/19	"	
Zinc	**3.12**	0.004	0.050	"	"	"	"	05/30/19	"	

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.

Client Name: San Diego Coastkeeper
Project Name: Stormwater 2019

EMA Log #: 19E0612

Conventional Chemistry Parameters by Standard/EPA Methods

Analyte	Result	MDL	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
El Cajon Hauling SW-1 (19E0612-01) Stormwater Sampled: 05/16/19 12:03 Received: 05/16/19 13:00										
Nitrate/Nitrite as N	**1.24**	0.009	0.05	mg/l	1	9052050	05/20/19	05/20/19	EPA 353.2	
Oil & Grease	**23.3**	1.40	5.00	"	"	9052338	05/23/19	05/23/19	EPA 1664A	
Phosphorus, Total	**9.12**	0.40	1.00	"	20	9052419	05/24/19	05/24/19	SM4500 P B, E	
Total Suspended Solids	**1980**	1.0	20.0	"	1	9052040	05/17/19	05/20/19	SM2540 D	

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.

Client Name: San Diego Coastkeeper
Project Name: Stormwater 2019

EMA Log #: 19E0612

Microbiological Parameters by Standard Methods

Analyte	Result	MDL	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
El Cajon Hauling SW-1 (19E0612-01) Stormwater Sampled: 05/16/19 12:03 Received: 05/16/19 13:00										
Total Coliforms	**1600000**	2000	2000	MPN/100 ml	1000	9051613	05/16/19	05/20/19	SM 9221 B, E	A-01
Fecal Coliforms	**1600000**	2000	2000	"	"	"	"	05/19/19	"	A-01
Enterococcus	**1600000**	2000	2000	"	"	9051614	"	05/20/19	SM 9230 A, B	A-01

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.

Client Name: San Diego Coastkeeper
Project Name: Stormwater 2019

EMA Log #: 19E0612

Total Metals by EPA 200 Series Methods - Quality Control

Analyte	Result	MDL	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit	Notes
Batch 9053033											
Blank (9053033-BLK1)					Prepared & Analyzed: 05/30/19						
Iron	ND	0.050	0.100	mg/l							
Lead	ND	0.008	0.050	"							
Copper	ND	0.009	0.050	"							
Zinc	ND	0.004	0.050	"							
Aluminum	ND	0.10	1.00	"							
Selenium	ND	0.005	0.010	"							
LCS (9053033-BS1)					Prepared & Analyzed: 05/30/19						
Copper	1.00	0.009	0.050	mg/l	1.00		100	85-115			
Iron	1.05	0.050	0.100	"	1.00		105	85-115			
Lead	1.04	0.008	0.050	"	1.00		104	85-115			
Zinc	0.986	0.004	0.050	"	1.00		99	85-115			
Selenium	1.03	0.005	0.010	"	1.00		103	85-115			
LCS (9053033-BS2)					Prepared & Analyzed: 05/30/19						
Aluminum	4.86	0.10	1.00	mg/l	5.00		97	85-115			
LCS Dup (9053033-BSD1)					Prepared & Analyzed: 05/30/19						
Lead	0.986	0.008	0.050	mg/l	1.00		99	85-115	5	20	
Iron	1.07	0.050	0.100	"	1.00		107	85-115	2	20	
Zinc	0.966	0.004	0.050	"	1.00		97	85-115	2	20	
Copper	0.964	0.009	0.050	"	1.00		96	85-115	4	20	
Selenium	1.03	0.005	0.010	"	1.00		103	85-115	0.1	20	
LCS Dup (9053033-BSD2)					Prepared & Analyzed: 05/30/19						
Aluminum	4.94	0.10	1.00	mg/l	5.00		99	85-115	2	20	
Duplicate (9053033-DUP1)		**Source: 19E0604-01**			Prepared & Analyzed: 05/30/19						
Zinc	0.227	0.004	0.050	mg/l		0.222			2	20	
Copper	0.080	0.009	0.050	"		0.077			5	20	
Lead	ND	0.008	0.050	"		ND				20	
Aluminum	2.44	0.10	1.00	"		2.59			6	20	
Iron	3.57	0.050	0.100	"		3.57			0.06	20	
Selenium	ND	0.005	0.010	"		ND				20	

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.

Client Name: San Diego Coastkeeper
Project Name: Stormwater 2019

EMA Log #: 19E0612

Total Metals by EPA 200 Series Methods - Quality Control

Analyte	Result	MDL	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit	Notes
Batch 9053033											
Matrix Spike (9053033-MS1)			**Source: 19E0604-01**		Prepared & Analyzed: 05/30/19						
Aluminum	4.98	0.10	1.00	mg/l	1.00	2.59	240	75-125			QM-4X
Copper	1.08	0.009	0.050	"	1.00	0.077	101	75-125			
Iron	4.94	0.050	0.100	"	1.00	3.57	138	75-125			QM-4X
Zinc	1.20	0.004	0.050	"	1.00	0.222	98	75-125			
Lead	1.21	0.008	0.050	"	1.00	ND	121	75-125			
Selenium	1.02	0.005	0.010	"	1.00	ND	102	75-125			
Matrix Spike (9053033-MS2)			**Source: 19E0617-01**		Prepared & Analyzed: 05/30/19						
Copper	1.00	0.009	0.050	mg/l	1.00	0.028	97	75-125			
Zinc	1.04	0.004	0.050	"	1.00	0.086	95	75-125			
Aluminum	1.55	0.10	1.00	"	1.00	0.25	130	75-125			QM-05
Iron	1.29	0.050	0.100	"	1.00	0.262	103	75-125			
Lead	1.02	0.008	0.050	"	1.00	ND	102	75-125			
Selenium	1.03	0.005	0.010	"	1.00	ND	103	75-125			
Matrix Spike Dup (9053033-MSD1)			**Source: 19E0604-01**		Prepared & Analyzed: 05/30/19						
Lead	1.02	0.008	0.050	mg/l	1.00	ND	102	75-125	17	20	
Copper	1.10	0.009	0.050	"	1.00	0.077	102	75-125	1	20	
Zinc	1.19	0.004	0.050	"	1.00	0.222	97	75-125	0.9	20	
Iron	4.96	0.050	0.100	"	1.00	3.57	139	75-125	0.3	20	QM-4X
Aluminum	5.04	0.10	1.00	"	1.00	2.59	245	75-125	1	20	QM-4X
Selenium	1.04	0.005	0.010	"	1.00	ND	104	75-125	1	20	

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.

Client Name: San Diego Coastkeeper
Project Name: Stormwater 2019

EMA Log #: 19E0612

Conventional Chemistry Parameters by Standard/EPA Methods - Quality Control

Analyte	Result	MDL	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit	Notes
Batch 9052040											
Blank (9052040-BLK1)					Prepared: 05/17/19	Analyzed: 05/20/19					
Total Suspended Solids	ND	1.0	20.0	mg/l							
Duplicate (9052040-DUP1)			**Source: 19E0485-01**		Prepared: 05/17/19	Analyzed: 05/20/19					
Total Suspended Solids	488	1.0	20.0	mg/l		488			0	20	
Reference (9052040-SRM1)					Prepared: 05/17/19	Analyzed: 05/20/19					
Total Suspended Solids	96.0	1.0	20.0	mg/l	100		96	77.1-110			
Batch 9052050											
Blank (9052050-BLK1)					Prepared & Analyzed: 05/20/19						
Nitrate/Nitrite as N	ND	0.009	0.05	mg/l							
LCS (9052050-BS1)					Prepared & Analyzed: 05/20/19						
Nitrate/Nitrite as N	0.48	0.009	0.05	mg/l	0.500		95	90-110			
LCS Dup (9052050-BSD1)					Prepared & Analyzed: 05/20/19						
Nitrate/Nitrite as N	0.48	0.009	0.05	mg/l	0.500		96	90-110	0.6	20	
Duplicate (9052050-DUP1)			**Source: 19E0573-01**		Prepared & Analyzed: 05/20/19						
Nitrate/Nitrite as N	0.32	0.009	0.05	mg/l		0.32			0.3	20	
Matrix Spike (9052050-MS1)			**Source: 19E0573-01**		Prepared & Analyzed: 05/20/19						
Nitrate/Nitrite as N	1.29	0.02	0.10	mg/l	1.00	0.32	96	90-110			
Matrix Spike Dup (9052050-MSD1)			**Source: 19E0573-01**		Prepared & Analyzed: 05/20/19						
Nitrate/Nitrite as N	1.28	0.02	0.10	mg/l	1.00	0.32	96	90-110	0.3	20	

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.

Client Name: San Diego Coastkeeper
Project Name: Stormwater 2019

EMA Log #: 19E0612

Conventional Chemistry Parameters by Standard/EPA Methods - Quality Control

Analyte	Result	MDL	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit	Notes
Batch 9052338											
Blank (9052338-BLK1)					Prepared & Analyzed: 05/23/19						
Oil & Grease	ND	1.40	5.00	mg/l							
LCS (9052338-BS1)					Prepared & Analyzed: 05/23/19						
Oil & Grease	36.2	1.40	5.00	mg/l	40.0		90	80-101			
LCS Dup (9052338-BSD1)					Prepared & Analyzed: 05/23/19						
Oil & Grease	35.3	1.40	5.00	mg/l	40.0		88	80-101	3	20	
Batch 9052419											
Blank (9052419-BLK1)					Prepared & Analyzed: 05/24/19						
Phosphorus, Total	ND	0.02	0.05	mg/l							
LCS (9052419-BS1)					Prepared & Analyzed: 05/24/19						
Phosphorus, Total	0.52	0.02	0.05	mg/l	0.500		104	80-120			
LCS Dup (9052419-BSD1)					Prepared & Analyzed: 05/24/19						
Phosphorus, Total	0.54	0.02	0.05	mg/l	0.500		108	80-120	4	20	
Duplicate (9052419-DUP1)		**Source: 19E0630-05**			Prepared & Analyzed: 05/24/19						
Phosphorus, Total	0.16	0.02	0.05	mg/l		0.16			2	20	
Matrix Spike (9052419-MS1)		**Source: 19E0630-05**			Prepared & Analyzed: 05/24/19						
Phosphorus, Total	0.68	0.02	0.05	mg/l	0.500	0.16	104	80-120			
Matrix Spike Dup (9052419-MSD1)		**Source: 19E0630-05**			Prepared & Analyzed: 05/24/19						
Phosphorus, Total	0.69	0.02	0.05	mg/l	0.500	0.16	106	80-120	1	20	

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.

Notes and Definitions

QM-4X	The spike recovery was outside of the QC acceptance limits for the MS and/or MSD due to analyte concentration at 4 times or greater the spike concentration. The QC batch was accepted based on LCS and/or LCSD recoveries within the acceptance limits.
QM-05	The spike recovery was outside acceptance limits for the MS and/or MSD due to matrix interference. The LCS and/or LCSD were within acceptance limits showing that the laboratory is in control and the data is acceptable.
A-01	CFU/mL= >/=1600000
ND	Analyte NOT DETECTED at or above the reporting limit (or method detection limit when specified)
NR	Not Reported
dry	Sample results reported on a dry weight basis (if indicated in units column)
RPD	Relative Percent Difference
MDL	Method detection limit (indicated per client's request)

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CHAIN-OF-CUSTODY RECORD 19E0612

EnviroMatrix Analytical, Inc.

4340 Viewridge Ave., Ste. A - San Diego, CA 92123 - Phone (858) 560-7717 - Fax (858) 560-7763

EMA LOG #:

Client: San Diego Coastkeeper

Attn:

Samplers(s): Patrick McDonough

Address: 2825 Dewey

Phone: Fax:

Email: patrick@sdcoastkeeper.org

Billing Address:

Project ID:

Project #: PO #:

Requested Analysis

ID #	Client Sample ID	Sample Date	Sample Time	Sample Matrix	Container # / Type	Oil & Grease □ 413.1 □ 413.2 □ 1664	8015 (TPH) □ Gas □ Diesel □ Ext	624/8260 (VOC) Full BTXE MTBE Oxy Nap	625 / 8270 (SVOC) □ PAH only	608 / 8081 (Organochlorine Pesticides)	608 / 8082 (Polychlorinated Biphenyls)	8141 (Organophosphorus Pesticides)	TBT (Organotin Compounds)	□ pH □ EC TSS □TDS	□ Nitrate □ Nitrite N-N □ TKN □NH3	CAC Title 22/CAM17 Metals □ TTLC □ STLC	TCLP (RCRA) □ Metals □ Organics	Cd Cr Cu Pb Ni Ag Zn □ Dissolved	Coliform, Total (MTF) Fecal (MTF) +3	Colilert, T+E.Coli □ P/A □ Enumeration	Enterococcus, MTF □ Enterolert +3	Heterotrophic Plate Count (HPC)	□ BOD □ COD □ Cyanide	Total Phosphorus	Fe, Al, Se			
1	El Cajon Hauling SW-1	5/16/19	12:03	SW		X								X	X			X	X		X			X	X			
2																												
3																												
4																												
5																												
6																												
7																												
8																												
9																												
10																												

Matrix Codes: A = Air, DW = Drinking Water, GW = Groundwater, SW = Storm Water
WW = Wastewater, S = Soil, SED = Sediment, SD = Solid, T = Tissue, O = Oil, L = Liquid

Shipped By: □ Courier □ UPS □ FedEx □ USPS ☒ Client Drop Off □ Other

[1]**Turn-Around-Time:** □ Same Day □ 1 day □ 2 day □ 3 day □ 4 day □ 5 day ☒ STD (7-business days)

[1]**Reporting Requirements:** □ Fax ☒ PDF □ Excel □ Geotracker/EDF □ Hard Copy □ EDT □ CEDEN □ SDWIS

[1]**Sample Disposal:** ☒ By Laboratory □ [2]Return to Client: P/U or Delivery □ Archive

Sample Integrity

Correct Containers: (Yes) No N/A	Containers Properly Preseved: (Yes) No N/A
Custody Seals Intact: Yes No (N/A)	Temp @ Receipt: 15°C on ice
COC/Labels Agree: (Yes) No N/A	Sampled By: (Client) EMA Autosampler

RELINQUISHED BY	DATE/TIME	RECEIVED BY
Signature: [signature]	1300 5/16/19	Signature: [signature]
Print: Patrick McDonough		Print: Min Lee
Company: SD Coastkeeper		Company: EMA
Signature:		Signature:
Print:		Print:
Company:		Company:
Signature:		Signature:
Print:		Print:
Company:		Company:

Project/Sample Location/Address:

Project/Sample Comments:

Client continued to run samples out of temp range - MR

[1]Additional costs may apply. Please note there is a $35 minimum charge for all clients.

[2]EMA reserves the right to return any samples that do not match our waste profile.

NOTE: By relinquishing samples to EMA, Inc., client agrees to pay for the services requested on this COC form and any additional analyses performed on this project. Payment for services is due within 30 days from date of invoice. Samples will be disposed of 7 days after report has been finalized unless otherwise noted. All work is subject to EMA's terms and conditions.

EXHIBIT 2

Exhibit 2, Storm Water Sampling Results from the Waste Management El Cajon Transfer Facility

No.	Date of Collection	Sample Location	Parameter	Units	Result	Benchmark/ WQO	Annual NAL
1	1/5/2016	SW-2	pH	SU	8.86	6.5-8.5[1]	6.0-9.0
2	1/5/2016	SW-6	pH	SU	6.2	6.5-8.5[1]	6.0-9.0
3	12/16/2016	SW-4	Total Suspended Solids (TSS)	mg/L	120	100[2]	100
4	1/23/2017	SW-5	Total Suspended Solids (TSS)	mg/L	130	100[2]	100
5	1/23/2017	SW-2	Total Suspended Solids (TSS)	mg/L	110	100[2]	100
6	1/23/2017	SW-6	Total Suspended Solids (TSS)	mg/L	110	100[2]	100
7	2/27/2017	SW-1	Total Suspended Solids (TSS)	mg/L	140	100[2]	100
8	1/9/2018	SW-5	Total Suspended Solids (TSS)	mg/L	110	100[2]	100
9	2/27/2018	SW-5	Total Suspended Solids (TSS)	mg/L	370	100[2]	100
10	2/27/2018	SW-4	Total Suspended Solids (TSS)	mg/L	270	100[2]	100
11	2/27/2018	SW-8	Total Suspended Solids (TSS)	mg/L	200	100[2]	100

1 - Basin Plan Objective
2 - MSGP EPA Benchmark Table 8.J-1, 8.E-1, or 8.C-1

EXHIBIT 3

Exhibit 3: Precipitation Data for Waste Management El Cajon Transfer Station Facility

National Oceanic & Atmospheric Administration
National Environmental Satellite, Data, and Information Service
Record of Climatological Observations
Station: EL CAJON 1.5WSW, CA US US1CASD0009
Location: Elev: 727 ft. Lat: 32.7907° N Lon: -116.9870° W

Date	Daily Precipitation (inches)
8/2/2014	0.13
8/3/2014	0.01
10/17/2014	0.01
10/31/2014	0.01
11/1/2014	0.41
11/2/2014	0.1
11/14/2014	0.01
11/21/2014	0.11
12/2/2014	0.52
12/3/2014	0.43
12/4/2014	0.48
12/7/2014	0.01
12/12/2014	0.81
12/13/2014	0.03
12/16/2014	0.58
12/17/2014	0.45
12/25/2014	0.02
12/30/2014	0.16
12/31/2014	0.29
1/11/2015	0.49
1/12/2015	0.01
1/26/2015	0.04
1/29/2015	0.02
1/31/2015	0.01
2/22/2015	0.13
2/23/2015	0.2
2/28/2015	0.13
3/1/2015	0.98
3/2/2015	0.21
4/23/2015	0.01
4/24/2015	0.04
4/25/2015	0.07
5/7/2015	0.01

Date	Daily Precipitation (inches)
5/8/2015	0.51
5/14/2015	0.19
5/15/2015	0.66
5/21/2015	0.01
5/22/2015	0.04
5/23/2015	0.03
6/30/2015	0.07
7/1/2015	0.02
7/10/2015	0.01
7/18/2015	0.88
7/19/2015	1
9/15/2015	0.91
9/16/2015	0.05
10/4/2015	0.17
10/5/2015	0.28
10/16/2015	0.02
10/17/2015	0.01
10/18/2015	0.02
11/2/2015	0.08
11/3/2015	0.66
11/4/2015	0.01
11/9/2015	0.01
11/10/2015	0.08
11/15/2015	0.03
11/25/2015	0.12
11/26/2015	0.05
11/27/2015	0.15
12/10/2015	0.01
12/11/2015	0.34
12/13/2015	0.18
12/19/2015	0.1
12/22/2015	0.7
12/23/2015	0.14

Exhibit 3: Precipitation Data for Waste Management El Cajon Transfer Station Facility

Date	Daily Precipitation (inches)
12/25/2015	0.01
12/28/2015	0.17
1/3/2016	0.01
1/4/2016	0.27
1/5/2016	1.59
1/6/2016	1.08
1/7/2016	1.2
1/8/2016	0.09
1/9/2016	0.02
1/15/2016	0.01
1/19/2016	0.01
1/23/2016	0.01
1/30/2016	0.01
1/31/2016	0.47
2/1/2016	0.02
2/18/2016	0.05
3/5/2016	0.02
3/6/2016	0.25
3/7/2016	0.57
3/8/2016	0.01
3/11/2016	0.25
3/14/2016	0.01
3/29/2016	0.02
3/30/2016	0.06
4/7/2016	0.43
4/8/2016	0.04
4/9/2016	0.03
4/10/2016	0.28
4/30/2016	0.04
5/5/2016	0.03
5/6/2016	0.48
5/15/2016	0.04
5/25/2016	0.01
5/28/2016	0.03
5/29/2016	0.04
5/30/2016	0.03
9/19/2016	0.01

Date	Daily Precipitation (inches)
9/20/2016	0.32
9/21/2016	0.12
10/24/2016	0.06
10/30/2016	0.01
11/20/2016	0.11
11/21/2016	0.27
11/26/2016	0.29
11/27/2016	0.28
11/28/2016	0.14
12/15/2016	0.04
12/16/2016	1.13
12/20/2016	0.01
12/21/2016	0.49
12/22/2016	0.58
12/23/2016	0.02
12/24/2016	0.84
12/25/2016	0.01
12/30/2016	0.26
12/31/2016	0.91
1/1/2017	0.05
1/5/2017	0.17
1/9/2017	0.21
1/11/2017	0.12
1/12/2017	0.14
1/13/2017	0.61
1/14/2017	0.01
1/18/2017	0.02
1/19/2017	0.72
1/20/2017	2.01
1/21/2017	0.01
1/22/2017	0.58
1/23/2017	0.72
1/24/2017	0.07
2/6/2017	0.13
2/7/2017	0.27
2/11/2017	0.07
2/17/2017	0.97

Exhibit 3: Precipitation Data for Waste Management El Cajon Transfer Station Facility

Date	Daily Precipitation (inches)
2/18/2017	0.3
2/19/2017	0.13
2/26/2017	0.1
2/27/2017	3.43
2/28/2017	0.01
3/5/2017	0.03
3/22/2017	0.09
5/6/2017	0.06
5/7/2017	1.23
5/8/2017	0.06
5/16/2017	0.05
8/28/2017	0.01
9/3/2017	0.06
9/8/2017	0.01
9/9/2017	0.01
10/20/2017	0.01
11/17/2017	0.01
11/27/2017	0.01
12/20/2017	0.07
1/8/2018	0.17
1/9/2018	2.04
1/10/2018	0.07
1/19/2018	0.01
2/12/2018	0.01
2/14/2018	0.01
2/21/2018	0.04
2/22/2018	0.14
2/23/2018	0.01
2/27/2018	0.61
3/3/2018	0.13
3/10/2018	0.57
3/13/2018	0.02
3/14/2018	0.03
3/15/2018	0.25
3/17/2018	0.27
3/18/2018	0.03
3/22/2018	0.01

Date	Daily Precipitation (inches)
3/23/2018	0.01
4/7/2018	0.01
4/12/2018	0.02
4/19/2018	0.06
4/30/2018	0.02
5/1/2018	0.02
5/2/2018	0.12
5/12/2018	0.03
5/18/2018	0.01
5/21/2018	0.04
5/24/2018	0.03
5/30/2018	0.01
9/30/2018	0.16
10/4/2018	0.09
10/12/2018	0.39
10/13/2018	0.06
11/22/2018	0.1
11/29/2018	1.37
11/30/2018	0.15
12/1/2018	0.02
12/5/2018	0.56
12/6/2018	1.59
12/7/2018	0.01
12/25/2018	0.62
12/31/2018	0.5
1/5/2019	0.3
1/6/2019	0.31
1/12/2019	0.45
1/14/2019	0.75
1/15/2019	0.24
1/16/2019	0.05
1/17/2019	0.27
1/18/2019	0.02
1/21/2019	0.07
1/31/2019	1.02
2/1/2019	0.03
2/2/2019	0.85

Exhibit 3: Precipitation Data for Waste Management El Cajon Transfer Station Facility

Date	Daily Precipitation (inches)
2/3/2019	0.03
2/4/2019	0.81
2/5/2019	0.13
2/6/2019	0.05
2/9/2019	0.04
2/10/2019	0.03
2/13/2019	0.68
2/14/2019	1.8
2/15/2019	0.08
2/16/2019	0.08
2/17/2019	0.3
2/18/2019	0.05
2/20/2019	0.45
2/21/2019	0.6
3/2/2019	0.34
3/3/2019	0.04
3/5/2019	0.05
3/6/2019	0.22
3/7/2019	0.04
3/8/2019	0.11
3/11/2019	0.07
3/12/2019	0.11
3/13/2019	0.03
3/20/2019	0.04
3/21/2019	0.12
3/22/2019	0.01
4/3/2019	0.04
4/5/2019	0.02
4/6/2019	0.06
4/16/2019	0.01
4/29/2019	0.04
4/30/2019	0.03
5/6/2019	0.02
5/7/2019	0.08
5/8/2019	0.02
5/9/2019	0.01
5/10/2019	0.03

Date	Daily Precipitation (inches)
5/11/2019	0.23
5/16/2019	0.13
5/19/2019	0.32
5/20/2019	0.32
5/22/2019	0.33
5/23/2019	0.03
5/26/2019	0.12
5/27/2019	0.03
6/21/2019	0.01