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VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

October 6, 2014

Marcie L. Edwards, General Manager
Charlynn Rachell
LADWP
111 N. Hope St., Room 1213
Los Angeles, CA 90012

Katherine Rubin
Manager Wastewater Quality
LADWP Valley Generating Station
11801 Sheldon St.
Sun Valley, CA 91352

Re: Notice of Violations and Intent to File Suit Under the Federal Water Pollution Control Act

Dear Ms. Edwards, Ms. Rachell and Ms. Rubin:

I am writing on behalf of California Communities Against Toxics ("CCAT") in regard to violations of the Federal Water Pollution Control Act (the "Clean Water Act" or "Act") that CCAT believes are occurring at the LADWP Valley Generating Station at 11801 Sheldon St./9430 San Fernando Rd., Sun Valley, California ("Facility"). CCAT is a non-profit public benefit corporation dedicated to working with communities to advocate for environmental justice and pollution prevention. CCAT has members living in the community adjacent to the Facility and the Los Angeles River Watershed. CCAT and its members are deeply concerned with protecting the environment in and around their communities, including the Los Angeles River Watershed. This letter is being sent to you as the responsible owners, officers, or operators of the Facility (all recipients are hereinafter collectively referred to as "LADWP"). ***CCAT appreciates the professionalism and environmental stewardship of the LADWP and its officials – but this is an area it can do better. CCAT hopes to amicably resolve this issue at once.***

This letter addresses the discharge of pollutants from the Valley Generating Facility through the Los Angeles County municipal storm sewer system to the Tujunga Wash into the

Los Angeles River. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. CA S000001, State Water Resources Control Board ("State Board") Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter "General Permit").[1] The WDID identification number for the Facility listed on documents submitted to the Regional Water Quality Control Board, Los Angeles Region ("Regional Board") is 4 19I004624. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit. ***Indeed, the quality of stormwater runoff from the Facility appears to be getting markedly worse, not better, over the past few years and CCAT respectfully wants to ensure that LADWP remedies the issue at once.***

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA") and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, LADWP is hereby placed on formal notice by CCAT that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CCAT intends to file suit in federal court against LADWP under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Permit. These violations are described more extensively below.

I. Background.

On approximately March 30, 1992 and June 16, 1997, LADWP filed a Notice of Intent to Comply With the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity ("NOI"). In its NOI and Annual Reports, LADWP has certified that the Facility is classified under SIC Code 4911 ("Electric Services"). The Facility collects and discharges storm water from its 157-acre industrial site into at least three storm drain outfalls located at the Facility. On information and belief, CCAT alleges that industrial activities at the site include power generation, storage of metal materials, and the use of hazardous chemicals including oils, solvents, soda ash, hydrazine, phosphate and caustic materials. On information and belief, CCAT alleges that storm water discharges from the Facility contain storm water that is commingled with runoff from the Facility from areas where industrial processes occur and/or

[1] On April 1, 2014, the State Board reissued the General Permit, continuing its mandate that industrial facilities implement the best available technology economically achievable ("BAT") and best conventional pollutant control technology ("BCT") and, in addition, establishing numeric action levels mandating additional pollution control efforts. State Board Order 2014-0057-DWQ. The new permit, however, does not go into effect until July 1, 2015. Until that time, the current General Permit remains in full force and effect.

where materials are stored. The outfalls discharge into Los Angeles County's municipal storm sewer system, which discharges into the Tujunga Wash, which flows into the Los Angeles River.

The Regional Board has identified beneficial uses of the Los Angeles River, including its tributary, Tujunga Wash, and established water quality standards for it in the "Water Quality Control Plan – Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties", generally referred to as the Basin Plan. *See* http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/basin_plan_documentation.shtml. The beneficial uses of these waters include, among others, municipal and domestic supply, groundwater recharge, water contact recreation, non-contact water recreation, warm freshwater habitat, wildlife habitat, and wetland habitat. The non-contact water recreation use is defined as "[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities." *Id.* at 2-2. Contact recreation use includes fishing and wading. *Id.* Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people's use of the Los Angeles River for contact and non-contact water recreation and commercial and sport fishing.

The Basin Plan includes a narrative toxicity standard which states that "[a]ll waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in, human, plant, animal, or aquatic life." *Id.* at 3-16. The Basin Plan includes a narrative oil and grease standard which states that "[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses." *Id.* at 3-11. The Basin Plan provides that "[w]aters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial uses." *Id.* at 3-16. The Basic Plan provides that "[t]he pH of bays or estuaries [or inland surface waters] shall not be depressed below 6.5 or raised above 8.5 as a result of waste discharges." *Id.* at 3-15. The Basin Plan provides that "[s]urface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use." *Id.* at 3-8. The Basin Plan provides that "[w]aters shall not contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses." *Id.* at 3-9. The Basin Plan provides that "[w]aters shall be free of coloration that causes nuisance or adversely affects beneficial uses." *Id.* The Basin Plan provides that "[w]aters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses." *Id.* at 3-17. The Basin Plan provides that "[w]aters shall not contain taste or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible aquatic resources, cause nuisance, or adversely affect beneficial uses." *Id.* at 3-16.

The EPA 303(d) List of Water Quality Limited Segments lists Reach 3 of the Los Angeles River, the from where the Facility's storm water discharges – as impaired for copper,

lead and zinc. As a result, the Basin Plan contains additional water quality standards for the Los Angeles River in an amendment setting forth Total Maximum Daily Loads ("**TMDLs**") for the Los Angeles River. *See* http://63.199.216.6/larwqcb_new/bpa/docs/R10-003/R10-003_RB_BPA.pdf. For General Industrial Storm Water permittees, the Basin Plan sets forth interim wet-weather concentration-based waste load allocations ("**WLAs**") that have been enforceable conditions for discharges since January 11, 2011. There is a WLA for zinc of 0.117 mg/L; copper of .0636 mg/L; and for lead .0816 mg/L.

EPA has promulgated the California Toxics Rule (hereinafter "**CTR**"), establishing freshwater numeric water quality standards known as Criteria Maximum Concentration (hereinafter "**CMC**") for zinc of 0.12 mg/L; copper of 0.013 mg/L; and for lead of 0.065 mg/L. 40 C.F.R. § 131.38.[2]

The Effluent Limitations of the General Permit prohibit the discharge of pollutants from the Facility in concentrations above the level commensurate with the application of best available technology economically achievable ("**BAT**") for toxic pollutants and best conventional pollutant control technology ("**BCT**") for conventional pollutants. *See* General Permit, Order Part B(3). The EPA has published Benchmark values set at the maximum pollutant concentration present if an industrial facility is employing BAT and BCT.[3] The following benchmarks have been established for pollutants discharged by LADWP: total suspended solids ("**TSS**") – 100 mg/L; zinc – 0.13 mg/L; copper – 0.0156 mg/L; iron – 1.0 mg/L and lead – 0.095 mg/L.

II. Alleged Violations of the Clean Water Act and the General Permit.

A. Discharges in Violation of the Permit not Subjected to BAT/BCT

LADWP has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand, and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

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[2] The values for zinc, copper, and lead are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 100 mg/L.

[3] The Benchmark Values can be found at:
http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf and
http://cwea.org/p3s/documents/multi-sectorrev.pdf (Last accessed on September 10, 2014).

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the General Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

LADWP has discharged and continues to discharge storm water with unacceptable levels of TSS, zinc, copper, lead and iron in violation of the General Permit. LADWP's sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following observations of pollutants from the Facility have violated water quality standards or water quality standards established in the Basin Plan or Cal. Toxics Rule and have thus violated Discharge Prohibition A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Permit.

Date	**Parameter**	**Observed Conditions**	**Basin Plan or Cal. Toxic Rule Water Quality Standard or Wasteload Allocation**	**Outfall (as identified by the Facility)**
10/6/2010	Narrative	Discoloration Light Gray	Basin Plan at 3-9 / Basin Plan at 3-17	#1 and 2
11/8/2010	Narrative	Discoloration Light Gray	Basin Plan at 3-9 / Basin Plan at 3-16 Basin Plan at 3-17	#1
12/19/2013	Zinc	.49 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#1
12/19/2013	Zinc	.52 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#2

12/19/2013	Zinc	.44 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#3
10/9/2013	Zinc	5.4 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#1
10/9/2013	Zinc	1.6 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#2
10/9/2013	Zinc	2.4 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#3
2/8/2013	Zinc	.187 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#1
2/8/2013	Zinc	1.1 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#2
2/8/2013	Zinc	.16 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#3
1/24/2013	Zinc	.2 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#2
10/11/2012	Zinc	1.9 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#1
10/11/2012	Zinc	5.2 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#2
10/11/2012	Zinc	1.5 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#3
11/20/2012	Zinc	.41 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#2
10/5/2011	Zinc	1.7 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#1
10/5/2011	Zinc	1.5 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#2
10/5/2011	Zinc	2.2 mg/L	0.117 mg/L WLA 0.12 mg/L CMC	#3
10/6/2010	Zinc	.47 mg/L	0.12 mg/L CMC	#1
10/6/2010	Zinc	2.1 mg/L	0.12 mg/L CMC	#2
10/6/2010	Zinc	.36 mg/L	0.12 mg/L CMC	#3
1/2/2011	Zinc	.46 mg/L	0.12 mg/L CMC	#2
10/13/2009	Zinc	1.2 mg/L	0.12 mg/L CMC	#1
10/13/2009	Zinc	3.2 mg/L	0.12 mg/L CMC	#2
10/13/2009	Zinc	1.8 mg/L	0.12 mg/L CMC	#3
1/17/2010	Zinc	.55 mg/L	0.12 mg/L CMC	#2
12/19/2013	Copper	.077 mg/L	0.013 mg/L CMC 0.0636 WLA	#1
12/19/2013	Copper	.034 mg/L	0.013 mg/L CMC	#2
12/19/2013	Copper	.046 mg/L	0.013 mg/L CMC	#3
10/9/2013	Copper	.21 mg/L	0.013 mg/L CMC	#1

			0.0636 WLA	
10/9/2013	Copper	.15 mg/L	0.013 mg/L CMC 0.0636 WLA	#2
10/9/2013	Copper	.11 mg/L	0.013 mg/L CMC 0.0636 WLA	#3
2/8/2013	Copper	.027 mg/L	0.013 mg/L CMC	#1
2/8/2013	Copper	.028 mg/L	0.013 mg/L CMC	#2
1/24/2013	Copper	.02 mg/L	0.013 mg/L CMC	#1
10/11/2012	Copper	.3 mg/L	0.013 mg/L CMC 0.0636 WLA	#1
10/11/2012	Copper	.2 mg/L	0.013 mg/L CMC 0.0636 WLA	#2
10/11/2012	Copper	.19 mg/L	0.013 mg/L CMC 0.0636 WLA	#3
10/5/2012	Copper	.13 mg/L	0.013 mg/L CMA 0.0636 WLA	#1
10/5/2012	Copper	.071 mg/L	0.013 mg/L CMC 0.0636 WLA	#2
10/5/2012	Copper	.085 mg/L	0.013 mg/L CMC 0.0636 WLA	#3
10/6/2010	Copper	.03 mg/L	0.013 mg/L CMC	#1
10/6/2010	Copper	.05 mg/L	0.013 mg/L CMC	#2
10/6/2010	Copper	.05 mg/L	0.013 mg/L CMC	#3
10/13/2009	Copper	.07 mg/L	0.013 mg/L CMC	#1
10/13/2009	Copper	.11 mg/L	0.013 mg/L CMC	#2
10/13/2009	Copper	.04 mg/L	0.013 mg/L CMC	#3
10/9/2013	Lead	.21 mg/L	.065 mg/L CMC .0816 mg/L WLA	#1
10/11/2012	Lead	.21 mg/L	.065 mg/L CMC .0816 mg/L WLA	#2
11/20/2012	Lead	.42 mg/L	.065 mg/L CMC .0816 mg/L WLA	#2
10/6/2010	Lead	.09 mg/L	.065 mg/L CMC	#2
10/13/2009	Lead	.08 mg/L	.065 mg/L CMC	#2

The information in the above table reflects data gathered from LADWP's self-monitoring during the 2009-2010, 2010-2011, 2011-2012, 2012-2013 and 2013-2014 wet seasons.

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Permit.

Date	Parameter	Observed Concentration	EPA Benchmark Value	Location (as identified by the Facility)
12/19/2013	Total Suspended Solids	638 mg/L	100 mg/L	#1
12/19/2013	Total Suspended Solids	286 mg/L	100 mg/L	#3
10/9/2013	Total Suspended Solids	242 mg/L	100 mg/L	#1
10/9/2013	Total Suspended Solids	574 mg/L	100 mg/L	#2
10/9/2013	Total Suspended Solids	324 mg/L	100 mg/L	#3
10/9/2013	Total Suspended Solids	110 mg/L	100 mg/L	#1
10/9/2013	Total Suspended Solids	158 mg/L	100 mg/L	#3
1/24/2013	Total Suspended Solids	169 mg/L	100 mg/L	#3
10/11/2012	Total Suspended Solids	809 mg/L	100 mg/L	#1
10/11/2012	Total Suspended Solids	371 mg/L	100 mg/L	#3
11/20/2012	Total Suspended Solids	198 mg/L	100 mg/L	#1
11/20/2012	Total Suspended Solids	146 mg/L	100 mg/L	#3
10/5/2011	Total Suspended Solids	160 mg/L	100 mg/L	#1
10/5/2011	Total Suspended Solids	225 mg/L	100 mg/L	#3
10/6/2010	Total Suspended Solids	229 mg/L	100 mg/L	#1
10/6/2010	Total Suspended Solids	228 mg/L	100 mg/L	#3
12/19/2013	Zinc	.49 mg/L	.13 mg/L	#1
12/19/2013	Zinc	.52 mg/L	.13 mg/L	#2
12/19/2013	Zinc	.44 mg/L	.13 mg/L	#3
10/9/2013	Zinc	5.4 mg/L	.13 mg/L	#1
10/9/2013	Zinc	1.6 mg/L	.13 mg/L	#2
10/9/2013	Zinc	2.4 mg/L	.13 mg/L	#3
2/8/2013	Zinc	.187 mg/L	.13 mg/L	#1
2/8/2013	Zinc	1.1 mg/L	.13 mg/L	#2
2/8/2013	Zinc	.16 mg/L	.13 mg/L	#3
1/24/2013	Zinc	.2 mg/L	.13 mg/L	#2
10/11/2012	Zinc	1.9 mg/L	.13 mg/L	#1
10/11/2012	Zinc	5.2 mg/L	.13 mg/L	#2
10/11/2012	Zinc	1.5 mg/L	.13 mg/L	#3
11/20/2012	Zinc	.41 mg/L	.13 mg/L	#2
10/5/2011	Zinc	1.7 mg/L	.13 mg/L	#1
10/5/2011	Zinc	1.5 mg/L	.13 mg/L	#2
10/5/2011	Zinc	2.2 mg/L	.13 mg/L	#3
10/6/2010	Zinc	.47 mg/L	.13 mg/L	#1
10/6/2010	Zinc	2.1 mg/L	.13 mg/L	#2

10/6/2010	Zinc	.36 mg/L	.13 mg/L	#3
1/2/2011	Zinc	.46 mg/L	.13 mg/L	#2
10/13/2009	Zinc	1.2 mg/L	.13 mg/L	#1
10/13/2009	Zinc	3.2 mg/L	.13 mg/L	#2
10/13/2009	Zinc	1.8 mg/L	.13 mg/L	#3
1/17/2010	Zinc	.55 mg/L	.13 mg/L	#2
12/19/2013	Copper	.077 mg/L	.0156 mg/L	#1
12/19/2013	Copper	.034 mg/L	.0156 mg/L	#2
12/19/2013	Copper	.046 mg/L	.0156 mg/L	#3
10/9/2013	Copper	.21 mg/L	.0156 mg/L	#1
10/9/2013	Copper	.15 mg/L	.0156 mg/L	#2
10/9/2013	Copper	.11 mg/L	.0156 mg/L	#3
2/8/2013	Copper	.027 mg/L	.0156 mg/L	#1
2/8/2013	Copper	.028 mg/L	.0156 mg/L	#2
1/24/2013	Copper	.02 mg/L	.0156 mg/L	#1
10/11/2012	Copper	.3 mg/L	.0156 mg/L	#1
10/11/2012	Copper	.2 mg/L	.0156 mg/L	#2
10/11/2012	Copper	.19 mg/L	.0156 mg/L	#3
10/5/2012	Copper	.13 mg/L	.0156 mg/L	#1
10/5/2012	Copper	.071 mg/L	.0156 mg/L	#2
10/5/2012	Copper	.085 mg/L	.0156 mg/L	#3
10/6/2010	Copper	.03 mg/L	.0156 mg/L	#1
10/6/2010	Copper	.05 mg/L	.0156 mg/L	#2
10/6/2010	Copper	.05 mg/L	.0156 mg/L	#3
10/13/2009	Copper	.07 mg/L	.0156 mg/L	#1
10/13/2009	Copper	.11 mg/L	.0156 mg/L	#2
10/13/2009	Copper	.04 mg/L	.0156 mg/L	#3
10/9/2013	Lead	.21 mg/L	.095 mg/L	#1
10/11/2012	Lead	.21 mg/L	.095 mg/L	#2
11/20/2012	Lead	.42 mg/L	.095 mg/L	#2
12/19/2013	Iron	2.6 mg/L	1.0 mg/L	#1
12/19/2013	Iron	2.3 mg/L	1.0 mg/L	#3
10/9/2013	Iron	3.5 mg/L	1.0 mg/L	#1
10/9/2013	Iron	2.6 mg/L	1.0 mg/L	#2
10/9/2013	Iron	3.6 mg/L	1.0 mg/L	#3
10/11/2012	Iron	12 mg/L	1.0 mg/L	#1
10/11/2012	Iron	5.4 mg/L	1.0 mg/L	#2
10/11/2012	Iron	19 mg/L	1.0 mg/L	#3
10/5/2011	Iron	1.9 mg/L	1.0 mg/L	#1
10/5/2011	Iron	1.5 mg/L	1.0 mg/L	#2
10/5/2011	Iron	1.9 mg/L	1.0 mg/L	#3
10/6/2010	Iron	1.7 mg/L	1.0 mg/L	#1

10/6/2010	Iron	1.5 mg/l	1.0 mg/L	#2
10/6/2010	Iron	3 mg/L	1.0 mg/L	#3
10/13/2009	Iron	1.2 mg/L	1.0 mg/L	#2
10/13/2009	Iron	1.5 mg/L	1.0 mg/L	#3

The information in the above table reflects data gathered from LADWP's self-monitoring during the 2009-2010, 2010-2011, 2011-2012, 2012-2013 and 2013-2014 wet seasons. CCAT alleges that during each of those rainy seasons and continuing through today, LADWP has discharged storm water contaminated with pollutants at levels that exceed one or more applicable EPA Benchmarks, including but not limited to each of the following:

- Total Suspended Solids – 100 mg/L
- Zinc – .13 mg/L
- Copper – .0156 mg/L
- Lead – .095 mg/L
- Iron – 1.0 mg/L

CCAT's investigation, including its review of LADWP's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards and EPA's benchmark values, indicates that LADWP has not implemented BAT and BCT at the Facility for its discharges of TSS, zinc, copper, lead and iron in violation of Effluent Limitation B(3) of the General Permit. LADWP was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, LADWP is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed in the tables above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CCAT alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since October 6, 2009, and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CCAT alleges that LADWP has discharged storm water containing impermissible levels of TSS, zinc, copper, lead and iron in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the General Permit.[4]

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[4] The rain dates are all the days when rain fell by comparing data from a weather station in Santa Monica, California, approximately 20 miles away from the Facility, and a weather station in Glendale, approximately 10 miles away from the Facility. http://www.ipm.ucdavis.edu/WEATHER/SITES/losangeles.html (Last accessed on September 10, 2014). The rain dates on the attached table are when a daily average of 0.1" or more rain was observed.

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, LADWP is subject to penalties for violations of the General Permit and the Act since October 6, 2009.

B. Failure to Develop and Implement an Adequate Monitoring and Reporting Program

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the "quality and quantity of the facility's storm water discharges from the storm event."

CCAT alleges that the Facility did not visually observe rain events in Feb., Mar. and May 2014 and Apr. 2013, reporting that there were no rain events when in fact there were such rain events during these months. This failure results in at least four violations of the General Permit.

The above violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, LADWP is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since October 6, 2009.

C. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan

Section A and Provision E(2) of the General Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan ("SWPPP") no later than October 1, 1992. Section A(1) and Provision E(2) requires dischargers who submitted an NOI pursuant to the General Permit to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices ("BMPs") to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm

water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include 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 non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)).

CCAT's review of the Facility's SWPPP and its investigation of the conditions at the Facility as well as LADWP's Annual Reports indicate that LADWP has been operating with an inadequately developed and implemented SWPPP in violation of the requirements set forth above. LADWP has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. LADWP has been in continuous violation of Section A and Provision E(2) of the General Permit every day since October 6, 2009, at the very latest, and will continue to be in violation every day that LADWP fails to prepare, implement, review, and update an effective SWPPP. LADWP is subject to penalties for violations of the Order and the Act occurring since October 6, 2009.

D. Failure to File True and Correct Annual Reports

Section B(14) of the General Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), (10). Section A(9)(d) of the General Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

For the last five years, LADWP and its agent, Katherine Rubin, inaccurately certified in its Annual Reports that the Facility was in compliance with the General Permit. Consequently, LADWP has violated Sections A(9)(d), B(14) and C(9) & (10) of the General Permit every time LADWP failed to submit a complete or correct report and every time LADWP or its agents falsely purported to comply with the Act. LADWP is subject to penalties for violations of Section (C) of the General Permit and the Act occurring since at least July 2010.

III. Persons Responsible for the Violations.

CCAT respectfully puts LADWP on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CCAT puts LADWP on notice that it intends to include those persons in this action.

IV. Name and Address of Noticing Parties.

The name, address and telephone number of CCAT is as follows:

Jane Williams
Executive Director
California Communities Against Toxics
P.O. Box 845
Rosamond, CA 93560
Tel. (661) 510-3412

V. Counsel.

CCAT has retained counsel to represent it in this matter. Please direct all communications to:

Gideon Kracov
Law Office of Gideon Kracov
801 S. Grand Avenue, 11th Floor
Los Angeles, CA 90017
gk@gideonlaw.net
213-629-2071

VI. Penalties.

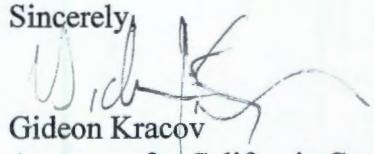
Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects LADWP to a penalty of up to $37,500 per day per violation. In addition to civil penalties, CCAT will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. §1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

CCAT believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CCAT intends to file a citizen suit under Section 505(a) of the Act against LADWP and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CCAT would be willing to discuss

effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CCAT suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. CCAT does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

CCAT appreciates the professionalism and environmental stewardship of the LADWP and its officials – but this is an area it can do better. CCAT hopes to amicably resolve this issue at once.

Sincerely,



Gideon Kracov
Attorneys for California Communities Against Toxics

cc via first class mail:

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Holly Wolcott
LA City Clerk
200 North Spring Street
City Hall - Room 360
Los Angeles, CA 90012

Claims Dept.
LADWP
PO Box 51111, Room 342
Los Angeles, CA 90051-0100

SERVICE LIST

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Thomas Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Eric Holder, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Jared Blumenfeld, Regional Administrator
U.S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA, 94105

Samuel Unger, Executive Officer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

ATTACHMENT A

Rain Dates, LADWP, Sun Valley, Los Angeles County, California

10/13/2009	4/11/2010	12/19/2010
10/14/2009	4/12/2010	12/20/2010
12/7/2009	4/20/2010	12/21/2010
12/10/2009	4/28/2010	12/22/2010
12/11/2009	10/6/2010	12/25/2010
12/12/2009	10/17/2010	12/26/2010
12/13/2009	10/18/2010	12/29/2010
12/30/2009	10/19/2010	1/2/2011
1/13/2010	10/20/2010	1/3/2011
1/17/2010	10/21/2010	1/30/2011
1/18/2010	10/22/2010	2/16/2011
1/19/2010	10/24/2010	2/18/2011
1/20/2010	10/25/2010	2/19/2011
1/21/2010	10/30/2010	2/25/2011
1/22/2010	11/8/2010	2/26/2011
1/26/2010	11/20/2010	3/2/2011
2/5/2010	11/21/2010	3/3/2011
2/6/2010	11/22/2010	3/19/2011
2/9/2010	11/23/2010	3/20/2011
2/19/2010	11/24/2010	3/21/2011
2/27/2010	11/25/2010	3/23/2011
3/3/2010	11/26/2010	3/24/2011
3/4/2010	11/27/2010	3/25/2011
3/6/2010	12/5/2010	3/27/2011
4/4/2010	12/17/2010	5/15/2011
4/5/2010	12/18/2010	5/17/2011

ATTACHMENT A

Rain Dates, LADWP, Sun Valley, Los Angeles County, California

5/18/2011	10/11/2012	3/8/2013
10/5/2011	11/17/2012	3/9/2013
11/4/2011	11/29/2012	4/14/2013
11/6/2011	11/30/2012	4/15/2013
11/12/2011	12/1/2012	5/6/2013
11/20/2011	12/2/2012	7/11/2013
12/12/2011	12/3/2012	8/6/2013
12/13/2011	12/12/2012	10/9/2013
1/21/2012	12/13/2012	11/29/2013
1/23/2012	12/14/2012	12/19/2013
2/27/2012	12/16/2012	12/20/2013
3/17/2012	12/18/2012	2/6/2014
3/18/2012	12/24/2012	2/28/2014
3/25/2012	12/26/2012	3/1/2014
3/31/2012	12/29/2012	3/5/2014
4/10/2012	1/24/2013	4/1/2014
4/11/2012	1/25/2013	4/2/2014
4/13/2012	2/19/2013	
4/25/2012	3/7/2013	