LOS ANGELES WATERKEEPER®

December 20, 2013

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Managing Agent/Owner
M&M Metal Recycling
11655 Truesdale Street
Los Angeles, CA 91352

Silva Jololian
Owner of Record
9870 Glenoaks Blvd
Los Angeles, CA 91352

Re: Notice of Violation and Intent to File Suit Under the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*

To Whom It May Concern:

I am writing on behalf of Los Angeles Waterkeeper ("Waterkeeper") regarding violations of the Clean Water Act ("CWA" or "Act")[1] and the State of California's General Industrial Storm Water Permit ("Storm Water Permit")[2] occurring at the M&M Metal Recycling Facility, located at 11655 Truesdale Street, Los Angeles, CA 91352 and/or 9870 Glenoaks Blvd, Los Angeles, CA 91352 (hereinafter "M&M Metal Recycling Facility" or "Facility"). The owner(s) and/or operator(s) of the Facility have failed to obtain coverage under the Storm Water Permit and continue to operate the Facility without a Permit in violation of the Clean Water Act. *See* 33 U.S.C. §§ 1311(a), 1342. ("A failure to comply with or obtain coverage under the Storm Water Permit is a violation of the Clean Water Act.").

A facility's owner(s) and/or operator(s) are liable and subject to civil penalties for violations of the provisions of the Clean Water Act. 40 C.F.R. § 122.41(b). As explained below, the owner(s) and/or operator(s) of the Facility are liable and subject to civil penalties for violating the Clean Water Act and the Storm Water Permit.

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[1] Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*

[2] National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ, *available at* http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/induspmt.pdf (including the required Notice of Intent form for storm water dischargers).

Section 505(a) of the Clean Water Act authorizes citizen suits for violations of the Act, including the unpermitted discharge of pollutants. *See* 33 U.S.C. § 1311; 33 U.S.C. § 1365(a)(1) (authorizing suits "against any person . . . who is alleged to be in violation of . . . an effluent standard or limitation under this Act or . . . an order issued . . . with respect to such a standard or limitation."). 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 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).

Waterkeeper submits this letter to you as the responsible owner, officer, and/or operator of M&M Metal Recycling. By this letter issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act, (hereinafter "Notice Letter") Waterkeeper puts the owner(s) and/or operator(s) of the M&M Metal Recycling Facility on notice that after the expiration of sixty (60) days from the date of this letter, Waterkeeper intends to file an enforcement action in federal court against the owner(s) and/or operator(s) of the Facility for violating the Storm Water Permit and the Clean Water Act.

I. Background

A. Los Angeles Waterkeeper

Los Angeles Waterkeeper (formerly the Santa Monica Baykeeper) is a non-profit 501(c)(3) public benefit corporation organized under the laws of California with its main office at 120 Broadway, Suite 105, Santa Monica, CA 90401. Founded in 1993, Waterkeeper has approximately 3,000 members who live and/or recreate in and around the Los Angeles area. Waterkeeper is dedicated to the preservation, protection, and defense of the rivers, creeks and coastal waters of Los Angeles County from all sources of pollution and degradation. To further this mission, Waterkeeper actively seeks federal and state implementation of the Clean Water Act. Where necessary, Waterkeeper directly initiates enforcement actions on behalf of itself and its members.

Members of Waterkeeper reside in Los Angeles County, near the Los Angeles River and the Los Angeles Estuary. As explained in detail below, the owner(s) and/or operator(s) of the M&M Metal Recycling Facility have continuously discharged pollutants into the Los Angeles River, which flows into the Los Angeles River Estuary, the Los Angeles/Long Beach Harbor, the San Pedro Bay, the Long Beach City Beach, and the Pacific Ocean (collectively "Receiving Waters"), in violation of the Clean Water Act and the Storm Water Permit. Waterkeeper members use these waters and beaches to swim, boat, and kayak. Waterkeeper members also use the path alongside the Los Angeles River to bird watch, view wildlife, hike, bike, walk, and run. Additionally, Waterkeeper members use these waters to engage in scientific study through pollution and habitat monitoring and restoration activities, including Waterkeeper's Marine

Program, Kelp Restoration Project, Marine Protected Areas Watch Project, Watershed Program, and Drain Watch Program. The unlawful discharge of pollutants from the M&M Metal Recycling Facility into the Receiving Waters impairs Waterkeeper members' use and enjoyment of these waters. Thus, the interests of Waterkeeper's members have been, are being, and will continue to be adversely affected by the M&M Metal Recycling Facility owners' and/or operators' failure to comply with the Clean Water Act and the Storm Water Permit.

The unlawful storm water discharge from the M&M Metal Recycling Facility into the L.A. River, the L.A. Harbor and the Pacific Ocean impairs Waterkeeper members' use and enjoyment of these waters. Thus, the interests of Waterkeeper's members have been, are being and will continue to be adversely affected by M&M Metal Recycling owner(s) and/or operator(s)' failure to comply with the Clean Water Act and the Storm Water Permit.

B. The M&M Metal Recycling Owner(s) and/or Operator(s)

Information available to Waterkeeper indicates that the M&M Metal Recycling Facility located at 11655 Truesdale Street, Los Angeles, CA 91352 and/or 9870 Glenoaks Blvd, Los Angeles, CA 91352 is owned and/or operated by the managing agent at M&M Metal Recycling and Silva Jololian (referred to in this Notice as "M&M Metal Recycling owner(s) and/or operator(s)").

Information available to Waterkeeper indicates that the M&M Metal Recycling owner(s) and/or operator(s) have failed to obtain coverage under the Storm Water Permit since the business began its operations. Information available to Waterkeeper indicates that the Facility's industrial activities include but are not limited to the storage, processing, handling, recycling, and transportation of scrap metals. These industrial operations fall within the Storm Water Permit's Standard Industrial Classification code of regulated activity ("SIC Code") as 5093 (processing, reclaiming, and wholesale distribution of scrap metal and waste materials). The Storm Water Permit therefore regulates the storm water discharges from the M&M Metal Recycling Facility. *See* Storm Water Permit, Attachment 1 at 2.

C. Storm Water Pollution, Los Angeles River, Los Angeles Harbor and Pacific Ocean

With every significant rainfall event, millions of gallons of polluted rainwater, originating from numerous Los Angeles industrial operations such as the M&M Metal Recycling Facility, pour into storm drains and Los Angeles area surface waters. The consensus among regulatory agencies and water quality experts is that storm water pollution accounts for more than half of the total pollution entering marine and river environments annually. According to the National Research Council's "Report on Urban Storm Water," storm water runoff is "a principal contributor to water quality impairment

of waterbodies nationwide."[3] This discharge of pollutants from industrial facilities in storm water contributes to the impairment of downstream waters and aquatic dependent wildlife. A water body is impaired if it is unable to support its beneficial uses, as described below.

Information available to Waterkeeper indicates that storm water flows from the M&M Metal Recycling Facility enter the nearby municipal storm drain systems and then are carried by the municipal storm drains until they reach and discharge into the L.A. River.

Discharges from recycling facilities such as the M&M Metal Recycling Facility contain pollutants such as: oil and grease ("O&G"); total suspended solids ("TSS"); hydraulic and other fuels; lubricants; heavy metals such as copper, iron, lead, aluminum, and zinc; antifreeze; brake fluid; transmission fluid; solvents; dirt, dust, and debris; pathogens (including bacteria); nutrients; chemical oxygen demand ("COD"); and trash. Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and developmental or reproductive harm. Discharges of polluted storm water and non-storm water to the Receiving Waters via the storm drain system pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

The Regional Board issued the *Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura County* ("Basin Plan"). The Basin Plan identifies the "Beneficial Uses" of the portions of the Los Angeles River Watershed (including the Receiving Waters) that receive polluted storm water discharges from the M&M Metal Recycling Facility. These Beneficial Uses include: water contact recreation ("REC 1"), non-contact water recreation ("REC 2"), warm freshwater habitat ("WARM"), ground water recharge ("GWR"), wildlife habitat ("WILD"), wetland ("WET"), estuarine habitat ("EST"), industrial service supply ("IND"), navigation ("NAV"), marine habitat ("MAR"), commercial fishing ("COMM"), rare, threatened, or endangered ("RARE"), migration of aquatic organisms ("MIGR"), and spawning, reproduction and/or early development ("SPWN"). *See* Basin Plan, Table 2-1. Reaches 1 and 2 of the Los Angeles River are impaired by pollutants such as pH, cyanide, diazinon, lead, nutrients, ammonia, cadmium, coliform bacteria, copper, trash, zinc, and oil.[4] The Los Angeles River Estuary is impaired by, among other pollutants, chlordane, sediment toxicity, and trash.[5] The Los Angeles/Long Beach Harbor is impaired by at least chrysene, copper, sediment toxicity, and zinc.[6] The San Pedro Bay is impaired by sediment toxicity, and the Long Beach City

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[3] National Research Council of the National Academies, "Urban Stormwater Management in the United States," vii (2008).
[4] 2010 Integrated Report – All Assessed Waters, available at: http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml (last accessed on December 3, 2013).
[5] *Id.*
[6] *Id.*

Beach, one of the San Pedro Bay beaches, is impaired by indicator bacteria.[7] Polluted discharges from the M&M Metal Recycling Facility cause and/or contribute to the degradation of these already impaired surface waters, beaches, and aquatic-dependent wildlife. The pollutants discharged into the L.A. River, the Los Angeles River Estuary, Los Angeles/Long Beach Harbor, and San Pedro Bay. For the Los Angeles area aquatic ecosystem to regain its health, contaminated storm water discharges, including those from the Facility, must be eliminated.

The Receiving Waters are ecologically sensitive areas. Although pollution and habitat destruction have drastically altered the natural ecosystem, the Receiving Waters are still essential habitat for dozens of fish and bird species, as well as macro-invertebrate and invertebrate species. Storm water and non-storm water contaminated with sediment, heavy metals, and other pollutants harm the special aesthetic and recreational significance that the Receiving Waters have for people in the surrounding communities. The public's use of the Receiving Waters for water contact sports and fishing exposes many people to toxic metals, pathogens and bacteria, and other contaminants in storm water and non-storm water discharges. Non-contact recreational and aesthetic opportunities, such as wildlife observation, are also impaired by polluted discharges to the Receiving Waters.

II. The M&M Metal Recycling Facility and Storm Water Discharges

Information available to Waterkeeper demonstrates ongoing and continuous violations of the Clean Water Act at the M&M Metal Recycling Facility. The Facility has been operating without the necessary Storm Water Permit coverage since at least July 15, 2011, and has been discharging and continues to discharge polluted storm water associated with industrial activity since its founding.

Investigations by Waterkeeper indicate that the M&M Metal Recycling owner(s) and/or operator(s) engage in the recycling services of scrap metals. Information available to Waterkeeper including visual observations indicate that the M&M Metal Recycling Facility is surrounded by a fence and includes a yard with piles of scrap metal, trash containers and other recyclables. The Facility handles at least Bronze, Copper, Aluminum and Electric Motors. A portion of the M&M Metal Recycling Facility site has no roof or other covering.

Waterkeeper's investigations also confirm that the M&M Metal Recycling owner(s) and/or operator(s) conduct scrap recycling operations and store materials at the Facility without adequate cover, thereby exposing pollutants associated with their industrial activities to precipitation. Waterkeeper's visual observations of the Facility also indicate that the M&M Metal Recycling owner(s) and/or operator(s) have not properly developed and/or installed best management practices ("BMPs") at the Facility sufficient to prevent the exposure of pollutants associated with the Facility's industrial operations to storm water and non-storm water, and further, have not properly developed and/or

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[7] *Id.*

installed BMPs sufficient to prevent the discharge of these pollutants from the Facility during rainstorm events.

The failure to properly address these pollutant sources results in contaminated flows generated by the Facility during rain events that are discharged from its outfalls, into the municipal storm sewer system and into the L.A. River, the L.A. Harbor, and the Pacific Ocean. Visual observations and investigations conducted by Waterkeeper demonstrate that the M&M Metal Recycling owner(s) and/or operator(s) have violated and continue to violate the Clean Water Act by discharging storm water from their Facility without obtaining coverage under the Storm Water Permit. These failures have resulted in and continue to contribute to the degradation of the L.A. River, and ultimately, the Pacific Ocean, while harming a diverse array of wildlife and threatened and endangered species.

III. Violations of the Clean Water Act and the Storm Water Permit

The Clean Water Act expressly prohibits the "discharge of any pollutant" unless such discharge complies with another Section of the Clean Water Act, including Section 402, which provides for the issuance of an NPDES permit. 33 U.S.C. §§ 1311(a)(1), 1342(a). "Discharge of a pollutant" means any "addition of a pollutant to navigable waters from any point source." 33 U.S.C. § 1362(12). Pollutant is defined to include "industrial, municipal, and agricultural waste discharged into water." 33 U.S.C. § 1362(6). A point source is "any discernable, confined and discrete conveyance," 33 U.S.C. § 1362(14), and navigable waters are broadly defined as "the waters of the United States." 33 U.S.C. § 1362(7). NPDES permits include both general permits, which authorize a category of discharges under the CWA within a geographical area, *see* 40 C.F.R. § 122.28, and individual permits, which are issued to specific facilities.

In California, the owner(s) and/or operator(s) of any facility that discharges storm water associated with one of the industrial activities listed in Part 122.26(b)(14) of Title 40 of the Code of Federal Regulations and Attachment 1 of the Storm Water Permit must obtain coverage under the Storm Water Permit. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1); Storm Water Permit, Fact Sheet pp. VI-VII. Metal scrapyards, salvage yards and recycling facilities engaged in assembling, breaking up, sorting, and wholesale distribution of scrap and waste material are among the facilities listed in Attachment 1 of the Storm Water Permit. Storm Water Permit, Attachment 1 at 2. Therefore, a scrap metal recycling facility is prohibited from discharging pollutants unless it enrolls under the Storm Water Permit.

Furthermore, the owner(s) and/or operator(s) of such facility 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); Storm Water Permit, Fact Sheet p. VII. The Storm Water Permit imposes on industrial facilities specific requirements related to the quality of their storm water and non-storm water discharges. *See e.g.,* Storm Water Permit at 3 (Section A, Discharge Prohibitions), pp. 3-4 (Section B, Effluent Limitations), pp. 4-5 (Section C, Receiving Water Limitations), pp. 5-6 (Section D,

Special Conditions). Any noncompliance with the conditions of the Storm Water Permit "constitutes a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act and is grounds for ... enforcement action." Storm Water Permit at 46.

A. Unpermitted Discharges of Storm Water

The M&M Metal Recycling owner(s) and/or operator(s) have failed to obtain coverage under the Storm Water Permit and are thus engaged in the unpermitted discharge of pollutants, in ongoing violation of the Clean Water Act. Information available to Waterkeeper indicates that the M&M Metal Recycling Facility is engaged in the recycling, breaking up, sorting and wholesale distribution of scrap metals and other scrap and waste material. The M&M Metal Recycling owner(s) and/or operator(s) therefore must obtain coverage under the Storm Water Permit. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1); Storm Water Permit, Fact Sheet pp. VI-VII. An industrial facility operator who has not obtained coverage under the Storm Water Permit must submit an application for an individual NPDES permit. *Id.*

M&M Metal Recycling owner(s) and/or operator(s) have failed to apply for and obtain coverage under the Storm Water Permit or an individual NPDES Permit. Information available to Waterkeeper indicates that the M&M Metal Recycling Facility has illegally discharged storm water into area storm drains, L.A. River, L.A. Harbor and the Pacific Ocean during every measurable precipitation event at the Facility.[8] By failing to apply for Storm Water Permit coverage and continuing to discharge polluted storm water into the L.A. River, L.A. Harbor and the Pacific Ocean without an NPDES Permit, the M&M Metal Recycling owner(s) and/or operator(s) have continuously violated the Storm Water Permit and the Clean Water Act since at least 1996. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1).

To obtain authorization for continued and future storm water discharges associated with industrial activity under the Storm Water Permit, each facility operator must submit a Notice of Intent (NOI). Storm Water Permit, Fact Sheet, p. II. The Storm Water Permit requires that a facility operator submit an NOI for each industrial facility that is required by EPA regulations to obtain a permit. *See* Storm Water Permit Provision E(1)-(3); Attachment 3, NOI Instructions.

B. Failure to Prepare and Implement a SWPPP and a Monitoring and Reporting Program

A facility's failure to obtain coverage under the Storm Water Permit or to comply with the requirements of the Storm Water Permit is a violation of the Clean Water Act. *See* 40 C.F.R. § 122.41(a); Storm Water Permit, Section C(1). Information available to Waterkeeper indicates that M&M Metal Recycling owner(s) and/or operator(s) have failed to prepare and implement a Storm Water Pollution Prevention Plan ("SWPPP") and a Monitoring and Reporting Program, both requirements of the Storm Water Permit.

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[8] A list with all significant rain events at the Facility is attached as Exhibit A.

As a result, M&M Metal Recycling owner(s) and/or operator(s) have violated the Storm Water Permit.

1. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan (SWPPP)

The M&M Metal Recycling owner(s) and/or operator(s) have failed to develop and implement an adequate SWPPP as required by Section A of the Storm Water Permit. The Storm Water Permit requires dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water Permit. Storm Water Permit, Section A(1), E(2). The SWPPP requirement has two objectives: (1) to examine and identify potential sources of polluted storm water discharge from the Facility; and (2) to develop and implement facility-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. Storm Water Permit, Section A(2). To ensure its effectiveness, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9), and must be revised as necessary to ensure compliance with the Storm Water Permit. *Id.* Sections A(9), A(10).

Sections A(3) – A(10) of the Storm Water 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, and areas of industrial activity (Section A(4)); a list of significant materials handled and stored at the site (Section A(5)); and, 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 (Section A(6)). Sections A(7) and (8) 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 non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

The M&M Metal Recycling owner(s) and/or operator(s) have not developed and/or implemented a SWPPP that meets the requirements of the Storm Water Permit. Every day the M&M Metal Recycling owner(s) and/or operator(s) operate the M&M Metal Recycling Facility with an inadequately developed and/or implemented SWPPP constitutes a violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C § 1311(a). The M&M Metal Recycling owner(s) and/or operator(s) have therefore been in daily and continuous violation of the Storm Water Permit's SWPPP requirements every day since at least 1996. These violations are ongoing and the M&M Metal Recycling owner(s) and/or operator(s) will continue to be in violation every day that they fail to develop and implement an adequate SWPPP for the M&M Metal Recycling Facility. Waterkeeper will include additional violations when information becomes available. The M&M Metal Recycling owner(s) and/or operator(s) are subject to

civil penalties for all violations of the Storm Water Permit and the Clean Water Act since at least July 15, 2011.

2. Failure to Develop and Implement a Monitoring and Reporting Program

The M&M Metal Recycling owner(s) and/or operator(s) have failed to develop and implement an adequate Monitoring and Reporting Program. The Storm Water Permit requires facility operators to develop and implement an adequate Monitoring and Reporting Program ("MRP") by October 1, 1992 or prior to the commencement of industrial activities at a facility. Storm Water Permit, Section B(1) and Provision E(3). The objective of the MRP requirement is to: "(1) demonstrate compliance with the Storm Water Permit; (2) aid in the implementation of the SWPPP; and (3) measure the effectiveness of the BMPs in reducing or preventing pollutants in storm water discharges and authorized non-storm water discharges." Storm Water Permit at x. The MRP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility, and that they are evaluated and revised whenever appropriate. *Id.*, Section B(2).

Sections B(3) through B(16) of the Storm Water Permit set forth the MRP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly dry season visual observations of all drainage areas within their facility for the presence of authorized and unauthorized non-storm water discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges from one storm event per month during the wet season (defined as October 1-May 30). Sections B(3) and (4) further require dischargers to document the presence of any floating or suspended material, oil and grease, discolorations, turbidity, odor and the source of any pollutants. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-storm water discharges and to reduce or prevent pollutants from contacting non-storm water and storm water discharges. Storm Water Permit, Sections B(3) and (4). Finally, dischargers must revise the SWPPP to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *Id.*, Section B(4).

Sections B(5) and (7) of the Storm Water Permit require dischargers to visually observe and collect samples of storm water discharges from all locations where storm water is discharged. Storm water samples must be collected during the first hour of discharge from (1) the first storm event of the wet season, and (2) at least one other storm event in the wet season." Storm Water Permit, Section B(5)(a). The Storm Water Permit allows permittees to comply with the MRP requirements individually or participate in a group monitoring program. *Id.*, Section B(15).

Storm water samples must be analyzed for total suspended solids ("TSS"), pH, specific conductance, and total organic carbon ("TOC") or oil and grease. Storm Water Permit, Section B(5)(c). The Facility, as a scrap metal recycling facility classified as SIC Code 5093, must also analyze storm water samples for iron, lead, aluminum, zinc, and

chemical oxygen demand, or as required by the Regional Board. Storm Water Permit, Section B(5)(c); Storm Water Permit, Table D, Sector N.

Information available to Waterkeeper indicates that the M&M Metal Recycling owner(s) and/or operator(s) have not sampled or analyzed their storm water discharges or conducted the required visual observations since at least July 15, 2011.

In addition to the requirements to sample and analyze storm water discharges and conduct visual observations, the Storm Water Permit requires dischargers to submit an Annual Report to the Regional Board by July 1 of each year. Storm Water Permit, Section B(14). The Annual Report must include a summary of visual observations and sampling results, an evaluation of the visual observation and sampling and analysis results, laboratory reports, the annual comprehensive site compliance evaluation report, an explanation of why a facility did not implement any activities required, and records specified in Section B(13). Storm Water Permit, Section B(14). Waterkeeper's investigation reveals that the M&M Metal Recycling owner(s) and/or operator(s) have not submitted the required Annual Report since at least July 15, 2011.

Every day that the M&M Metal Recycling owner(s) and/or operator(s) operate the Facility without conducting the requisite visual observations and storm water sampling and analysis, and without submitting annual reports 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 M&M Metal Recycling owner(s) and/or operator(s) have been in daily and continuous violation of the Storm Water Permit's MRP requirements every day since at least July 15, 2011. These violations are ongoing and the M&M Metal Recycling owner(s) and/or operator(s) will continue to be in violation every day that they fail to revise, develop, and/or implement an adequate MRP for the Facility. Waterkeeper will include additional violations when information becomes available. The M&M Metal Recycling owner(s) and/or operator(s) are subject to penalties for all violations of the Storm Water Permit and the Clean Water Act occurring since at least July 15, 2011.

C. Relief and Penalties 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 a notice of intent to file suit. These provisions of law authorize civil penalties of up to $27,500 per day per violation for all Clean Water Act violations between January 30, 1997 and March 15, 2004, $32,500 per day per violation for all Clean Water Act violations between March 15, 2004 and January 12, 2009, and $37,500 per day per violation for all Clean Water Act violations after January 12, 2009. In addition to civil penalties, Waterkeeper 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), Waterkeeper will seek to recover its costs, including attorneys' and experts' fees, associated with this enforcement action.

Waterkeeper now places the M&M Metal Recycling owner(s) and/or operator(s) on notice of their violations of the Clean Water Act and the Storm Water Permit for each day of violation occurring at the Facility since July 15, 2011..

IV. Conclusion

Upon expiration of the 60-day notice period, Waterkeeper will file a citizen suit under Section 505(a) of the Clean Water Act for the above-referenced violations. During the 60-day notice period, however, Waterkeeper is willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, it is suggested that you initiate those discussions immediately. If good faith negotiations are not being made, at the close of the 60-day notice period, Waterkeeper will proceed expeditiously with litigation. We may elect not to initiate litigation if M&M Metal Recycling applies for coverage under the Storm Water Permit and develops and implements an adequate SWPPP and MRP within 60 days from the date of this letter.

Please direct all communications to Los Angeles Waterkeeper:

Liz Crosson
Tatiana Gaur
Los Angeles Waterkeeper
120 Broadway, Suite 105
Santa Monica, California 90401
(310) 305-9645

Sincerely,

Liz Crosson
Los Angeles Waterkeeper

Tatiana K. Gaur

Tatiana Gaur
Los Angeles Waterkeeper

SERVICE LIST

VIA U.S. MAIL

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

Jared Blumenfeld, Regional Administrator
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105

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

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

Los Angeles Waterkeeper Notice of Violations and Intent to File Suite—Exhibit A
Days with Significant Rain Events (Rainfall above 0.1 inches)
December 2008-December 2013
482- Los Angeles, USC Rain Gauge

Date	Rainfall
10/5/2011	0.95
11/4/2011	0.14
11/6/2011	0.37
11/12/2011	0.17
11/20/2011	0.74
12/12/2011	0.62
12/13/2011	0.16
1/21/2012	0.67
1/23/2012	0.52
2/15/2012	0.13
3/17/2012	0.64
3/18/2012	0.17
3/25/2012	0.58
3/26/2012	0.19
4/11/2012	0.61
4/13/2012	0.44
4/26/2012	0.43
11/17/2012	0.26
11/29/2012	0.23
11/30/2012	0.38
12/3/2012	0.22
12/15/2012	0.1
12/18/2012	0.45
12/24/2012	0.32
12/26/2012	0.31
12/29/2012	0.4
1/6/2013	0.13
1/24/2013	0.67
2/20/2013	0.19
3/8/2013	0.48
5/6/2013	0.69
11/21/2013	0.29
11/29/2013	0.23