



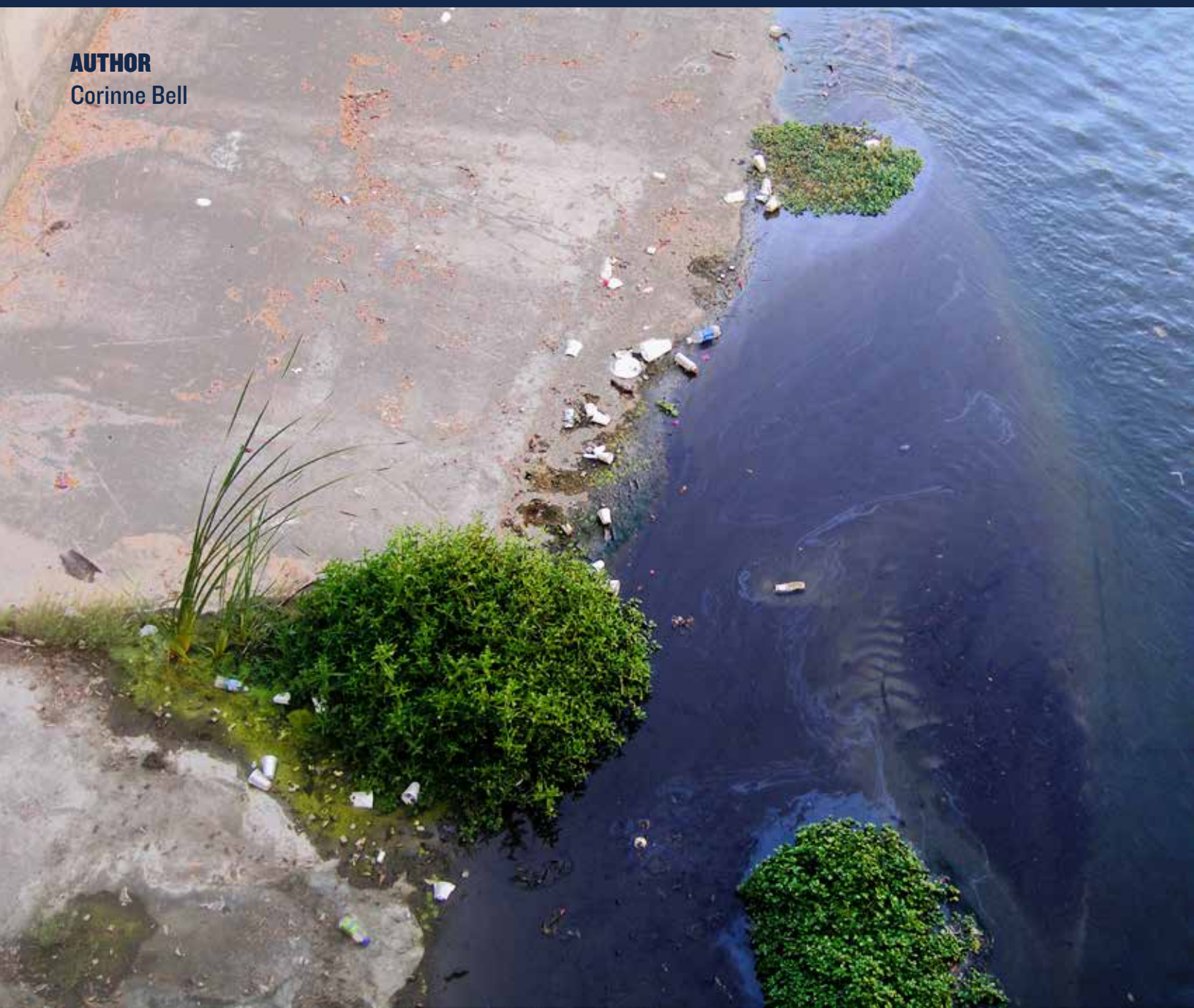
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REPORT

OMISSION ACCOMPLISHED II: THE LACK OF MUNICIPAL STORMWATER ENFORCEMENT IN THE LOS ANGELES REGION

AUTHOR

Corinne Bell



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NRDC Chief Communications Officer: Michelle Egan

NRDC Managing Directors of Communications: Lisa Goffredi and Jenny Powers

NRDC Publications Director: Mary Annaïse Heglar

NRDC Policy Publications Editor: Leah Stecher

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Days before publication of this report, the 2012 Los Angeles MS4 Permit, which is the focus of this report, was set aside by the Superior Court of Orange County because, in the court's opinion, the Regional Water Board failed to conduct a proper economic analysis of some of its requirements. It is unclear whether the Regional Board will appeal this decision. While the permit is currently invalidated, the major takeaways from this report remain the same: the Regional Board has not prioritized municipal stormwater enforcement during the 2012 permit period or during previous permit terms. The Regional Board was aware of the thousands of violations identified in this report soon after they occurred and yet took no action. Further, as demonstrated by the Orange County Superior Court decision, the Regional Board is increasingly ineffective at regulating the number one source of surface water pollution in the Los Angeles region. The residents of LA County deserve an effective Regional Water Board.

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Executive Summary

Urban runoff is the leading source of surface water pollution for Los Angeles County. It is responsible for up to 278 million dollars of public health costs annually, causing hundreds of thousands of cases of gastrointestinal illnesses. Every day, an estimated 100 million gallons of runoff contaminated with trash, bacteria from human and animal waste, metals from industrial processes, herbicides and pesticides from homes and businesses, and oil and grease from our roads flows through the region's massive stormdrain system to foul our rivers, creeks and, ultimately, our coastal waters. During a storm, this total can swell to ten billion gallons or more.

The State Water Resources Control Board (State Board) and nine Regional Water Quality Control Boards are responsible for protecting surface water and groundwater quality in California, including protecting the humans and ecosystems that depend on clean water. The Los Angeles Regional Water Quality Control Board (Regional Board) has jurisdiction over a region mostly covered in asphalt, concrete, and other impervious surfaces that result in a large amount of urban runoff in both dry and wet weather.

Municipal Separate Storm Sewer Systems (MS4s) channel polluted runoff into waterbodies, and therefore require permits under the Clean Water Act. The Los Angeles MS4 permit incorporates limits, known as total maximum daily loads (TMDLs), on the total amount of a given pollutant that can be added to a pollutant-impaired waterbody. There are numerous TMDLs included in the Los Angeles County MS4 permit, including TMDLs for trash and bacteria. The Regional Board oversees the Los Angeles County MS4 permit and is tasked with enforcing permit violations, including TMDL violations.

Despite the fact that urban runoff has been regulated through MS4 permits since 1990, it remains the most significant source of surface water pollution in the Los Angeles region. To understand why runoff is still such a big problem, NRDC analyzed MS4 enforcement actions taken by the Regional Board since permitting in the Region began. NRDC also performed a review of bacterial TMDL violations since the adoption of the 2012 LA County MS4 permit to provide a snapshot of the violations eligible for enforcement actions and to gain a general sense of permit compliance. We found that permittees, which include cities, are not complying with TMDL-related permit requirements and these violations are regularly unenforced by the Regional Board.

Specifically, this report calculates the number of dry-weather violations of the Santa Monica Bay Beaches, Ballona Creek, and the Malibu Creek bacteria TMDLs that occurred under the 2012 permit. NRDC focused on violations of the dry weather bacteria TMDLs because of the negative public health and environmental impacts of bacteria pollution and because these violations are not subject to the permit's "safe harbor" exemptions.

In all, NRDC found 2,079 violations of the permit's dry weather bacteria TMDL provisions from December 29, 2012 through October 31, 2017. These bacteria TMDL violations include:

- 1,265 violations of the Santa Monica Bay Beaches bacteria TMDL
- 449 violations of the Ballona Creek bacteria TMDL
- 365 violations of the Malibu Creek bacteria TMDL



The ten most egregious sites are spread across the three watersheds examined and are as follows:

1. Santa Monica Pier, Santa Monica State Beach (SMB 3-03): 455 violations¹
2. Lower Lindero Creek (MCW-13, MCW-CIMP11): 155 violations
3. Malibu Creek, Malibu Lagoon County Beach (SMB MC-2): 151 violations
4. Palo Comado Creek (MCW-10, MCW-CIMP9): 126 violations
5. Topanga Canyon, Topanga County Beach (SMB 1-18): 114 violations
6. Ballona Creek Estuary (McConnell Ave) (BCB-6, BCE_MCC): 89 violations
7. Centinela Creek (Inglewood Blvd) (BCB-7, CC_ING): 88 violations
8. Sepulveda Channel (BCB-4, SC_CUL): 86 violations
9. Pico Kenter stormdrain, Santa Monica State Beach (SMB 3-04): 78 violations
10. Duquesne (Duquesne Ave) (BCB-2, BC_02_DUQ): 50 violations

The Regional Board has undertaken a total of ten enforcement actions related to the 2012 MS4 permit; however, none of these enforcement actions addressed the 2,079 violations we identified. In fact, apart from Time Schedule Orders—which gave violators *more time* to comply with permit requirements—none of the Regional Board’s post-2012 enforcement actions addressed the bacteria TMDLs we examined. These thousands of violations and the accompanying lack of enforcement demonstrate that water quality in the Region is suffering, and the Regional Board has failed to address the problem.

Furthermore, violations occurred despite the fact that at some sites, the Regional Board had significantly raised the threshold for what constitutes a violation. The Regional Board did this by increasing the number of allowable exceedance days (i.e., the number of days a permittee could exceed limits without violating the permit) for monitoring sites in some of the most polluted areas. In some cases, under the guise of an enforcement Time Schedule Order and basin plan amendment, the Regional Board increased the allowances so high that permittees could exceed bacteria TMDL limits for a majority of their samples without ever triggering a violation. For example, the Sepulveda Channel monitoring station (BCB-4) recorded 45 exceedances from November 2013–October 2014. During this time period, the TMDL provided *one* allowable exceedance, typical for that watershed, resulting in 44 total violations for that site. That same monitoring station had 36 exceedances from November 2015–October 2016 but had zero violations for that year



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because the Regional Board had simply raised the number of allowable exceedances from one to *forty-eight*. Because this site is sampled weekly, this means that the site could exceed bacteria limits over 92 percent of the time without triggering a violation.

Unfortunately, our analysis of municipal stormwater enforcement since permitting began reveals that lack of enforcement is not new to the 2012 permit but instead is part of a long-term trend. NRDC’s assessment of the enforcement actions taken by the Regional Board from 1990 to March 2018 found only 51 unique enforcement actions that were not later withdrawn or rescinded.

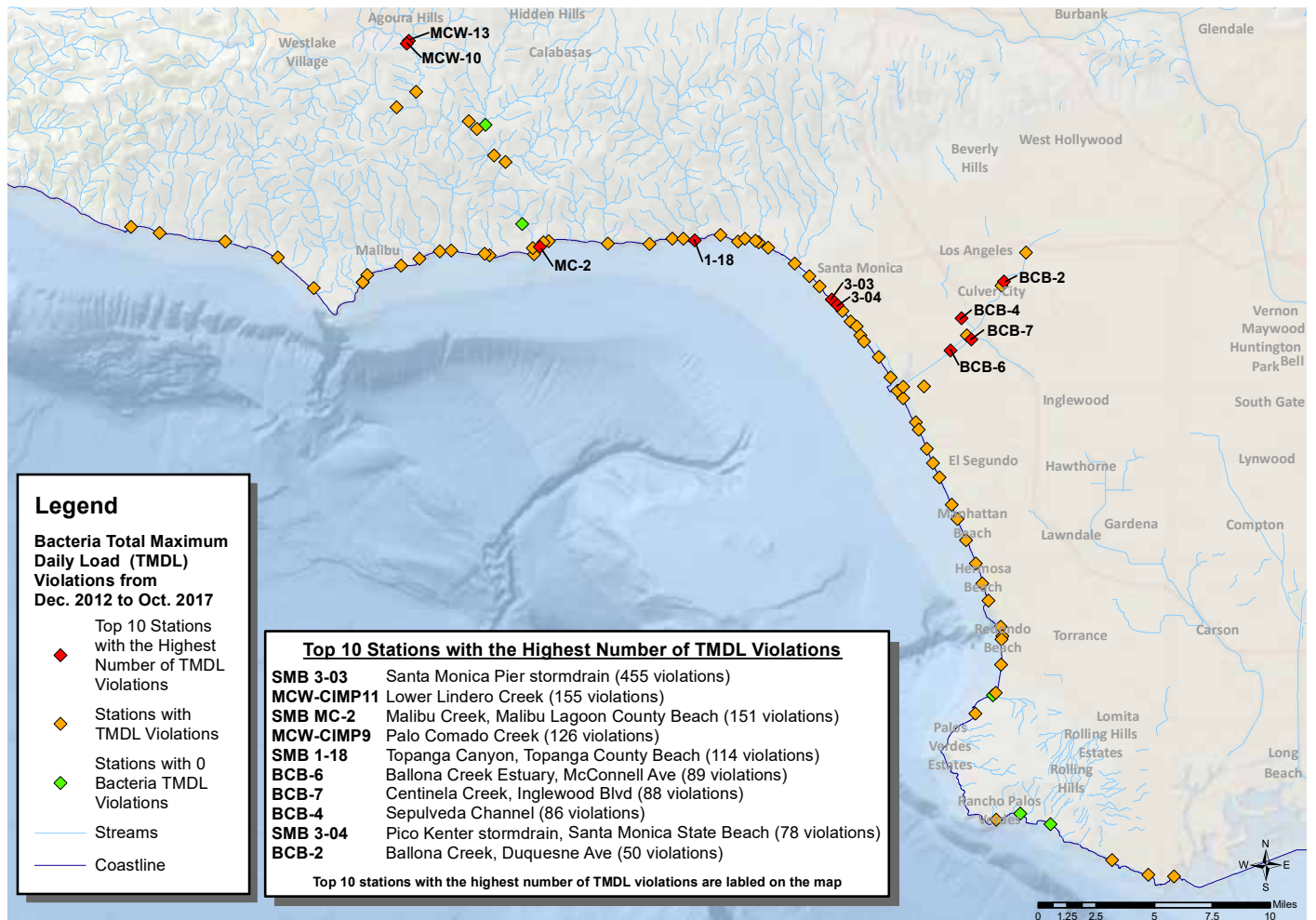
As a result of our analysis, this report concludes:

- The Regional Board’s lack of enforcement of water quality violations has created a culture of non-compliance among permittees, while pollution goes unabated and continues to jeopardize public health and the environment.
- The Regional Board’s lack of enforcement violates the State Board’s Enforcement Policy and the Memorandum of Agreement between USEPA and the State Board.
- For some monitoring sites like those found in Ballona Creek, instead of requiring compliance, the Regional Board has simply weakened standards in order to make compliance easier.

To improve water quality and stormwater enforcement, we recommend that the Regional Board take the following actions:

- Provide annual updates to Regional Board members regarding stormwater violations, with more frequent updates on repeat offenders such as those listed at the beginning of this report.
- Adhere to the Enforcement Policy by consistently and progressively addressing MS4 permit violations via

Total Bacteria TMDL Violations from December 2012 to October 2017



enforcement, including mandatory minimum penalties where applicable.

- Create an easily enforceable MS4 permit in 2019, which includes numeric limits and removes safe harbors.
- Devote significantly more resources to investigations and enforcement, including a full-time employee and increased legislative budget allocations if needed.
- To ease the burden on the Regional Board, all permittees should be required to submit monitoring reports in the same format, and monitoring site names should remain consistent. If site identifiers change this should be made clear in subsequent monitoring reports.
- To further aid transparency, permittees' monitoring

reports should be easily accessible and searchable on the Regional Board's website; enforcement action timelines, including any required next steps, responses, or resolutions, should also be outlined and easily accessible online.

- Educate permittees on the effective use of Measure W funds to increase resources for the implementation of stormwater projects.

Without the threat of meaningful enforcement, there is little to no incentive for dischargers to comply with permit terms whose goal it is to protect water quality. The Regional Board's current enforcement record has shown an omission of duty; the Board must start taking its enforcement duties seriously if stormwater pollution will ever be addressed in the region.

Introduction

The California State Water Resources Control Board and the nine Regional Water Quality Control Boards are responsible for the protection of water quality in California.² The mission of the Water Boards is “[t]o preserve, enhance, and restore the quality of California’s water resources and drinking water for the protection of the environment, public health, and all beneficial uses...for the benefit of present and future generations.”³ The State Water Board establishes statewide water quality control policy and regulations, coordinates Regional Water Board efforts, and reviews petitions contesting Regional Water Board actions.⁴ The Regional Water Boards are semi-autonomous and make critical water quality decisions for their region.⁵ The Los Angeles Regional Water Quality Control Board (Regional Board) was established in 1970 and has jurisdiction over the Los Angeles region, which includes the coastal watersheds of Los Angeles and Ventura counties, along with small portions of Kern and Santa Barbara counties.⁶

Over the past several decades, the population of Los Angeles County has skyrocketed. In 1990, the county’s population totaled 8.86 million⁷, and by 2010, that number had risen by nearly 1 million, to 9.82 million.⁸ Los Angeles County now has over ten million residents spread across 88 cities⁹ and is the most densely populated region in the state. This explosive growth has put tremendous pressure on the environment. To accommodate the needs of Los Angeles’ rapid population growth, urban development and expansion have replaced the vast majority of the region’s natural landscape with impervious surfaces (e.g. roads, rooftops, and parking lots).¹⁰ Stormwater and dry weather runoff travel over these impervious surfaces and is channeled into Municipal Separate Storm Sewer Systems (MS4s), which consist of stormwater drains and pipes that then discharge the runoff into ocean waters and rivers, resulting in serious threats to public health, safety, and the environment.

Every day, an estimated 100 million gallons of runoff contaminated with trash, bacteria from human and animal waste, metals from industrial processes, herbicides and pesticides from homes and businesses, and oil and grease from our roads flows through the region’s

massive stormdrain system to foul our rivers, creeks and, ultimately, our coastal waters.¹¹ The Regional Board is responsible for regulating the runoff within its jurisdiction, and does so by issuing and enforcing County MS4 permits pursuant to the federal Clean Water Act’s National Pollutant Discharge Elimination System (NPDES) program.¹² Recognizing that a strong enforcement program is critical to the success of this regulatory framework, the California Legislature granted significant enforcement authority to the Regional Water Boards.¹³

Despite the Los Angeles Regional Board’s duty to regulate urban runoff, their broad enforcement powers to fulfill that duty, and the fact that it has been regulated since 1990, urban runoff remains a leading cause of water pollution in the Los Angeles area.¹⁴ Enforcement is critical to reducing water pollution; a strong enforcement program can achieve significant public health and environmental benefits, whereas a weak enforcement regime has the opposite effect. To gain a full picture of the problem and the Regional Board’s response, NRDC assessed related enforcement efforts since 1990, in addition to examining specific violations of the 2012 MS4 permit.

To conduct this review, NRDC filed Public Records Act requests¹⁵ with the Regional Board for all documents regarding enforcement actions for municipal stormwater discharges since 1990. In addition to analyzing the extent of the Regional Board’s enforcement efforts, NRDC examined a portion of the Regional Board’s *opportunities* for enforcement through an assessment of existing violations of certain Bacterial TMDLs under the current Los Angeles County municipal stormwater permit. We did this by reviewing violations data detailed in permittees’ monitoring reports, which permittees are required to submit regularly to the Regional Board.

This report provides an overview of the State and Regional Boards’ enforcement authority, and an in-depth assessment of the Regional Board’s MS4-related enforcement actions since 1990. Finally, this report provides an analysis of bacterial TMDL violations under the current Los Angeles MS4 permit, finding 2,079 violations with no enforcement thereof.

The Problem of Urban Runoff

Much of Los Angeles' urban and suburban landscape is covered by impervious surfaces,¹⁶ which do not allow rain to soak into the ground. As a result, the rainfall “runs off” these surfaces and picks up harmful contaminants, such as trash, pesticides, heavy metals, automobile oil, and bacteria along the way. This polluted mixture, known as “stormwater runoff,” enters storm drain systems which then discharge the runoff, often untreated, into the ocean, rivers, and other local waterbodies. In addition to polluted stormwater, these systems also discharge “dry-weather runoff,” which comes from activities such as water from car washing and excessive landscape irrigation.¹⁷

The negative water quality impacts of urban runoff are well-known. The U.S. Environmental Protection Agency (USEPA) views urban runoff as a “significant” threat to water quality and considers it “one of the most significant reasons that water quality standards are not being met nationwide.”¹⁸ In Southern California, urban runoff is—

and has been for at least a decade—the largest source of surface water pollution.¹⁹ Polluted runoff not only harms aquatic life, but also poses serious human health risks; as early as 1996, urban runoff was recognized as a source of fecal bacteria at beaches, and therefore a public health concern.²⁰ One study of Southern California beaches showed that illnesses nearly doubled for people who swim near storm drain outlets.²¹ Other studies have found that polluted stormwater in Los Angeles County causes between 427,800 and 993,000 cases of gastrointestinal illnesses each year, resulting in annual public health costs of up to \$278 million.²²

The Regional Board is well aware of the stormwater problem, as it has stated that “[p]olluted storm water and non-storm water discharges from MS4s are a leading cause of water quality impairment in the Los Angeles Region.”²³

Federal and State Stormwater Regulation

The 1972 amendments to the Clean Water Act established the NPDES program, which prohibits the discharge of any pollutant from a point source into the nation's waters unless authorized by a permit.²⁴ A “point source” is defined as any “discrete conveyance,” such as a pipe or channel.²⁵ In 1987, Congress amended the Clean Water Act to specifically bring stormwater discharges from municipal sources into the NPDES program.²⁶

The Clean Water Act also requires each state to identify beneficial uses for all waters in the state and set water quality standards that protect those various uses.²⁷ For example, California waters designated as “water contact recreation” (REC-1), are waters that are historically or potentially used for swimming, surfing, diving, and other activities that risk ingesting water.²⁸

When waterbodies are polluted and do not support their beneficial uses, the Water Boards are required by section 303(d) of the Clean Water Act²⁹ to add that waterbody to a list of “impaired” waterbodies and to establish total maximum daily loads (TMDLs) for that waterbody. Essentially, TMDLs put dischargers on a “pollution diet” and dictate the total amount of a given pollutant that can be added to a waterbody without exceeding the applicable water quality standard.³⁰

NPDES MS4 permits for discharges to impaired waterbodies with TMDLs must include effluent limits consistent with the TMDL.³¹ The current Los Angeles MS4 permit covers 86 permittees (84 cities, the County Flood Control District, and Los Angeles County) and numerous impaired waterbodies.³² For a more complete history of NPDES permitting for MS4s, see Appendix I.

Board Enforcement Authority

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Venice Beach

California's Porter-Cologne Act establishes the responsibilities and authorities of the nine Regional Water Boards and State Water Board. The Act identifies the Water Boards as "the principal State agencies with primary responsibility for the coordination and control of water quality."³³ To carry out that responsibility, the Water Boards are given the authority to implement and enforce water quality laws, regulations, policies, and plans.³⁴ Enforcement is critical to the success of the water quality program, and to protect public health and the environment.³⁵ To this end, the Porter-Cologne Act conferred broad enforcement authority upon the Water Boards by making available a suite of administrative and judicial enforcement tools to ensure compliance with state and federal water quality requirements.

In the 1989 Memorandum of Agreement between USEPA and the State Water Board, USEPA affirmed that the primary authority to enforce all NPDES permits rests with the State and Regional Water Boards.³⁶ This document requires the State Board to "assure that enforcement of the NPDES program is exercised aggressively, fairly, and consistently by all nine Regional Boards."³⁷ Specifically, the Regional Water Boards are responsible for "[t]aking timely and appropriate enforcement actions in accordance with the [Clean Water Act], applicable Federal regulations, and State Law..."³⁸

STATE WATER QUALITY ENFORCEMENT POLICY

The Boards' stated approach to enforcement is outlined in the State Water Board's Water Quality Enforcement Policy. While the Regional Water Boards have primary responsibility for enforcement matters within their regions, the State Water Board has oversight authority over the Regional Boards' enforcement actions. The State Water Board may also take enforcement action in lieu of the Regional Board under specific circumstances.³⁹

The Enforcement Policy clearly states that the principal goal of enforcement is to encourage compliance with pollution control requirements so that water quality is protected.⁴⁰ The Policy recognizes that "[e]nforcement is a critical ingredient in creating the deterrence needed to encourage the regulated community to anticipate, identify, and correct violations."⁴¹

To ensure the most efficient and effective use of available resources, the Water Boards rely on the principle of progressive enforcement. This involves ranking violations by severity and using escalating levels of enforcement, beginning with informal actions as simple as a phone call or staff letter, followed by formal, increasingly more severe actions until compliance is achieved.⁴² While the Water Boards have a variety of enforcement tools at their disposal, some enforcement options are considered

discretionary while others are mandatory.⁴³ Despite the fact that some actions are discretionary, “[i]t is the policy of the State Water Board that every violation results in the appropriate enforcement response consistent with the priority of the violation established in accordance with [the Enforcement] Policy.”⁴⁴

INFORMAL ENFORCEMENT ACTIONS

An informal enforcement action is “any enforcement action taken by Water Board staff that is not defined in statute or regulation,” including oral and written contacts, notices of violation (NOV), and certain requests for information.⁴⁵ The purpose of informal actions is to promptly bring a violation—actual, threatened, or potential—to a discharger’s attention so they can address the violation and comply as soon as possible.⁴⁶ Importantly, the Enforcement Policy states that “continued noncompliance, particularly after informal actions have been unsuccessful, *will* result in escalation to more formal enforcement.”⁴⁷ More information on informal enforcement actions can be found in Appendix II.

FORMAL ENFORCEMENT ACTIONS

A Water Board may take formal enforcement actions simultaneously with informal actions or take the formal approach as its first response. “Formal enforcement actions are statute-based actions to address a violation or threatened violation of water quality laws, regulations, policies, plans, or orders.”⁴⁸ Formal actions that impose or conditionally impose penalties are considered “major” enforcement actions. Formal enforcement actions are detailed in Table 1 below, in order of increasing severity. More information on formal enforcement actions can be found in Appendix II.

MANDATORY MINIMUM PENALTIES

While the Water Boards have discretion to take any of the enforcement actions described above, the Porter-Cologne Act imposes mandatory enforcement obligations in some circumstances. Pursuant to § 13385(h) and (i), mandatory minimum penalties (MMPs) are required for certain violations of NPDES permits. The Water Boards, for example, must assess a minimum penalty of \$3,000 for each serious violation.⁵⁷ A “serious violation” is defined in Water Code §§ 13385(h)(2) and 13385.1, and includes certain waste discharges that violate effluent limitations⁵⁸ or the failure to file a discharge monitoring report.⁵⁹

In order to address chronic violations,⁶⁰ the Water Boards are also required to assess a minimum penalty of \$3,000 for each non-serious recurring violation. As is stipulated in the Water Code, a non-serious violation occurs when a discharger: “(A) Violates a waste discharge requirement (WDR) effluent limitation; (B) Fails to file a report of waste discharge pursuant to California Water Code section 13260...”⁶¹

Certain violations of TMDLs incorporated into the 2012 MS4 permit may be subject to mandatory minimum penalties because they are violations of WDR effluent limitations. The 2012 Los Angeles County MS4 permit sets out “waste discharge requirements for...MS4 discharges...” and the permit itself “serves as waste discharge requirements pursuant to article 4, chapter 4, division 7 of the California Water Code...”⁶² The current MS4 permit incorporates the water-quality based effluent limitations (WQBELs) for relevant TMDLs,⁶³ and the Regional Board has defined effluent limits as a numeric restriction on the quantity or concentration of pollutants.⁶⁴ Additionally, both the State and Regional Board have stated that the stormwater program may be subject to MMPs. For these reasons, chronic violations of the TMDLs’ WQBELs in the 2012 MS4 permit may be subject to MMPs.

TABLE 1: ENFORCEMENT ACTIONS AND DESCRIPTIONS	
FORMAL ENFORCEMENT ACTION	DESCRIPTION
Notice to Comply	States the nature of the violation, how the violation will be addressed, and a time limit (not to exceed 30 days) by which to comply. ⁴⁹ The only means by which a Water Board can commence a formal enforcement action for a “minor” violation. ⁵⁰
Technical Reports/Technical Investigation	The Board may require technical or monitoring reports from any discharger. ⁵¹
Cleanup and Abatement Orders	Requires the discharger to clean up the pollution, abate the effects of the pollution, or both. ⁵²
Time Schedule Orders	“[S]ets forth the actions the discharger will take to address actual or threatened illegal discharges of waste...” by a certain deadline. ⁵³ Section 13308 Time Schedule Orders prescribe civil penalties in advance. ⁵⁴
Cease and Desist Orders	An administrative order requiring dischargers to stop polluting or face tougher legal penalties. ⁵⁵
Administrative Civil Liabilities Complaints	Fines administratively imposed by the Water Boards. ⁵⁶

Regional Board MS4 Enforcement Actions from 1990–2018

Despite all the aforementioned enforcement tools, including mandatory actions, and the severity of runoff-related pollution in Los Angeles County, little action has been taken by the Boards to address municipal stormwater violations in the region. For this report, NRDC performed an extensive review of MS4 enforcement-related documents⁶⁵ issued by the Regional Board since 1990. NRDC obtained these documents through Public Records Act (PRA) requests to the Regional Board; we requested documents through September 30, 2018, and analyzed actions through March 2018. These were then cross-checked with the State Board’s California Integrated Water Quality System (CIWQS) database⁶⁶ to ensure that we had obtained a complete view of the Regional Board’s enforcement activities. Details on these enforcement actions can be found in Appendix II.

Based on our review of these documents, the Regional Board has taken a total of 74 enforcement actions since 1990, 23 of which were later rescinded or withdrawn.⁶⁷ The bulk of these enforcement actions were for violations of the 2001 Los Angeles County MS4 Permit, the permit that was in place until the 2012 permit. Among the 74 enforcement actions, the Regional Board brought only

five enforcement actions that impose civil penalties, known as Administrative Civil Liabilities (ACLs). All but one of these ACLs were substantially reduced from the maximum penalty; the one ACL that was not reduced was a mandatory minimum penalty. The largest recommended penalty, for \$274,896, was ultimately withdrawn by the Regional Board. We also found that when there was a follow-up enforcement action, it often occurred months or even more than a year later.

During this time, the Regional Board also issued three Time Schedule Orders (TSOs) pursuant to the 2012 Los Angeles County MS4 Permit. These three TSOs should be considered enforcement actions in name only, as the reality is that these Orders granted permittees *additional time* to comply with TMDL requirements at the request of the permittees.⁶⁸ The TSOs also increased the threshold that must be met for an exceedance day to trigger a violation, making compliance easier. The TSO affecting the Ballona watershed is discussed in detail below.

A summary of the Regional Board’s enforcement actions⁶⁹ can be seen in Tables 2, 3, 4, and 5, below and more details of the enforcement actions can be found in Appendix II.

TABLE 2: INFORMAL MS4-RELATED ENFORCEMENT ACTIONS FROM 1990–2012

TYPE OF INFORMAL ENFORCEMENT ACTION	NUMBER OF ENFORCEMENT ACTIONS	RESCINDED	TOTAL
Oral Contact	0	0	0
Notice of Violation (NOV)	8	3	5
Request for Information	0	0	0
Total	8	3	5

TABLE 3: FORMAL MS4-RELATED ENFORCEMENT ACTIONS FROM 1990–2012

TYPE OF FORMAL ACTION	NUMBER OF FORMAL ACTIONS	RESCINDED	TOTAL
Notice to Comply ⁷⁰	7	0	7
Request for Technical Reports & Investigation ⁷¹	45 ⁷²	19 ⁷³	26
Cleanup and Abatement Order (CAO)	0	0	0
Time Schedule Order (TSO)	0	0	0
Cease and Desist Order (CDO)	0	0	0
Administrative Civil Liabilities (ACL) Complaint	4	1	3
Total	56	20	36

Total Non-Rescinded Actions from 1990–2012: 41

Average Number of Non-Rescinded Actions per year 1990–2012: 1.82⁷⁴

TABLE 4: INFORMAL MS4 ENFORCEMENT ACTIONS FROM 2013–2018⁷⁵

TYPE OF INFORMAL ENFORCEMENT ACTION	NUMBER OF INFORMAL ENFORCEMENT ACTIONS	RESCINDED	TOTAL
Oral Contact	0	0	0
Notice of Violation (NOV)	1	0	1
Request for Information ⁷⁶	4	0	4
Total	5	0	5

TABLE 5: FORMAL MS4 ENFORCEMENT ACTIONS FROM 2013–2018

TYPE OF FORMAL ACTION	NUMBER OF FORMAL ACTIONS	RESCINDED	TOTAL
Notice to Comply	0	0	0
Request for Technical Reports & Investigation	1	0	1
Cleanup and Abatement Order (CAO)	0	0	0
Time Schedule Order (TSO) ⁷⁷	3	0	3
Cease and Desist Order (CDO)	0	0	0
Administrative Civil Liabilities (ACL) Complaint	1	0	1
Total	5	0	5

Total Non-Rescinded Actions from 2013–2018: 10

Average Number of Non-Rescinded Actions per year 2013–2018: 1.90⁷⁸

TABLE 6: ACL ENFORCEMENT ACTIONS FROM 1990–2018

PERMITTEE	DATE ISSUED	POTENTIAL PENALTY (MAX) OR MMP	ASSESSED PENALTY	PERCENTAGE REDUCTION	PAID OR RESCINDED
City of Pomona and County Department of Public Works	4/2/98	\$1,690,000 (max)	\$6,700	99.6%	Paid
City of Los Angeles	9/24/03	\$10,000 (max)	\$4,310	56.9%	Paid
City of Torrance	1/30/09	\$140,000 (max)	\$52,455	62.5%	Paid
Los Angeles County Flood Control District	2/18/10	\$22,158,000 (max)	\$274,896	98.8%	Rescinded
City of South El Monte	6/23/17	\$21,000 (MMP)	\$21,000	N/A	Paid

Bacteria TMDL Violations Pursuant to the 2012 Los Angeles County MS4 Permit



In addition to assessing the Regional Board's enforcement efforts since 1990, NRDC also examined some MS4 permit violations, focusing on violations of the bacteria TMDLs. NRDC analyzed violations of the bacteria TMDLs in three watersheds and uncovered thousands of ignored violations with severe consequences for the health of our waters.

NRDC chose to focus on bacteria TMDLs in part because waters contaminated with bacteria can cause various adverse health effects, including fever, chills, eye and ear infections, coughing and respiratory ailments, vomiting, diarrhea, and skin rashes.⁷⁹ Additionally, bacteria TMDLs are an enforceable part of the 2012 permit and not subject to the permit's broad safe harbors. When the Regional Board adopted the 2012 LA MS4 Permit, they included broad safe harbors⁸⁰ that excuse permittees from violations when certain stormwater management plans are developed and submitted to the Regional Board for approval. There are elements of the MS4 permit which impose effluent limits (such as TMDLs) that are not subject to the safe harbors and therefore can give rise to a permit violation.⁸¹

For this report, NRDC assessed noncompliance through the lens of three bacteria TMDLs that are incorporated into the MS4 permit. Specifically, NRDC set out to determine the number of violations of the Santa Monica Bay Beaches (SMB) TMDL; the Ballona Creek, Ballona Estuary, and Sepulveda Channel (Ballona Creek) TMDL; and the Malibu Creek and Lagoon Basins (Malibu Creek) TMDL. We examined monitoring data that permittees are required to regularly submit to the Regional Board, which we obtained via Public Records Act requests or from the Permittees themselves.⁸²

Given the low number of enforcement actions taken by the Regional Board, NRDC hypothesized that enforcement actions do not accurately reflect the actual frequency of violations in the region. Rather, we suspected that there are numerous chronic violations that currently go unenforced.⁸³ Unfortunately, this was confirmed.

NRDC's analysis reveals that thousands of MS4 permit violations have occurred since 2012 and are likely still occurring. The Regional Board, however, has taken no enforcement action to ensure that the dischargers remedy

these bacterial TMDL violations and cease violating in the future. Consequently, these violations continue to cause significant harm to the region's waters and to public health. The following section describes NRDC's methodology for calculating the TMDL violations and presents our findings. Additional details and maps illustrating the 2,079 violations can be found in Appendix III.

METHODOLOGY USED TO DETERMINE VIOLATIONS

Each TMDL sets numeric limits (or waste load allocations) for four bacterial indicators and allows for exceedances of these limits depending on the season, monitoring station, water type, sampling frequency, and/or whether the runoff occurred during dry weather or wet weather. The bacterial indicators are *E. coli*, enterococcus, total coliforms, and fecal coliforms; limits vary for each indicator. Exceedances of any one or more of the limits on the same day constitute an exceedance day. For example, if the limits for total coliform and fecal coliform are both exceeded at one site on a given day, that day is only counted as *one* exceedance day. Different monitoring stations are given different numbers of allowable exceedance days per season/year.⁸⁴

A bacteria TMDL violation occurs when the monitoring sample meets all of the following criteria: (1) at least one of the single sample limits is exceeded on a given sampling day, (2) the day is "dry," (meaning it did not rain 0.1 inch on that day or the three days prior) and (3) the number of exceedance days surpasses the allowable exceedance days for that season. The following equation shows how the number of violations is calculated:

$$\# \text{ of violations} = \# \text{ of exceedance days} - \# \text{ of allowable exceedance days}$$

In general, allowable exceedance days are grouped into three time periods:

1. Summer dry weather (April 1–October 31)
2. Winter dry weather (November 1–March 31)
3. Wet weather (defined as days with 0.1 inch of rain or more and the three days following the rain event)

Some stations' allowable exceedance days are grouped annually and not according to summer/winter seasons. Because the wet weather requirements of these TMDLs are not yet in effect, we identified wet weather days via appropriate rain gauge data and omitted any exceedances that occurred during wet weather.⁸⁵

Bacterial TMDL violations were calculated for the following time periods for each of the three watersheds (based on TMDL compliance deadlines and the MS4 permit period⁸⁶):

Santa Monica Bay Beaches: December 29, 2012–October 31, 2017

Ballona Creek: April 27, 2013–October 31, 2017

Malibu Creek: December 29, 2012–October 31, 2017

The ten sites with the most violations are spread across the three watersheds we examined, and are as follows:

1. Santa Monica Pier, Santa Monica State Beach (SMB 3-03): 455 violations⁸⁷
2. Lower Lindero Creek (MCW-13, MCW-CIMP11): 155 violations
3. Malibu Creek, Malibu Lagoon County Beach (SMB MC-2): 151 violations
4. Palo Comado Creek (MCW-10, MCW-CIMP9): 126 violations
5. Topanga Canyon, Topanga County Beach (SMB 1-18): 114 violations
6. Ballona Creek Estuary (McConnell Ave) (BCB-6, BCE_MCC): 89 violations
7. Centinela Creek (Inglewood Blvd) (BCB-7, CC_ING): 88 violations
8. Sepulveda Channel (BCB-4, SC_CUL): 86 violations
9. Pico Kenter stormdrain, Santa Monica State Beach (SMB 3-04): 78 violations
10. Duquesne (Duquesne Ave) (BCB-2, BC_02_DUQ): 50 violations

VIOLATIONS OF SANTA MONICA BAY BEACHES BACTERIA TMDL

In 1998, the Santa Monica Bay beaches were designated as impaired and placed on California's section 303(d) list due to excessive amounts of coliform bacteria.⁸⁸ Consequently,⁸⁹ the Regional Board developed and adopted the dry weather elements of the Santa Monica Bay Beaches bacteria TMDL on January 24, 2002 and USEPA approved the TMDL on June 19, 2003.⁹⁰ The Regional Board amended the TMDL on June 7, 2012, raising the threshold for what constitutes a violation, and USEPA approved the revision in July of 2014.⁹¹

The Santa Monica Bay Beaches bacteria TMDL sets the following single sample limits:

1. Total coliform density shall not exceed 10,000/100 mL.
2. Fecal coliform density shall not exceed 400/100 mL.
3. Enterococcus density shall not exceed 104/100 mL.
4. Total coliform density shall not exceed 1,000/100 mL, if the ratio of fecal-to-total coliform exceeds 0.1.⁹²

For each monitoring site in the Santa Monica Bay Beaches, the allowable number of exceedance days is set for summer dry weather, winter dry weather, and wet weather. The number of allowable exceedance days also depend on whether daily or weekly sampling is conducted at the site. No exceedances are permitted at any shoreline monitoring location during the summer dry period.

From December 29, 2012 to October 31, 2017, there have been **a total of 1,265 violations** of the Santa Monica Bay Beaches bacteria TMDL. A summary of the total allowable exceedances, actual exceedances, and violations by season can be found in Table 7 below, and a full break down of the violations by station can be found in Appendix III.

TABLE 7: SANTA MONICA BAY BEACHES BACTERIA TMDL ALLOWABLE EXCEEDANCES, ACTUAL EXCEEDANCES, AND TOTAL VIOLATIONS				
Allowable exceedances are set for each monitoring station and vary for each station. When one station has not met or surpassed its allowable exceedances, this “unused” allowable exceedance cannot be used by another site that has met its limit. For this reason, the total violations cannot be calculated by merely subtracting actual exceedances from the allowable number of exceedances.				
SEASON AND WEATHER	DATE	TOTAL ALLOWABLE EXCEEDANCES	ACTUAL EXCEEDANCES	TOTAL VIOLATIONS
Winter Dry	Dec 2012–Mar 2013	80	104	70
Summer Dry	Apr 2013–Oct 2013	0	185	185
Winter Dry	Nov 2013–Mar 2014	80	226	168
Summer Dry	Apr 2014–Oct 2014	0	158	158
Winter Dry	Nov 2014–Mar 2015*	162	226	108
Summer Dry	Apr 2015–Oct 2015	0	152	152
Winter Dry	Nov 2015–Mar 2016	162	159	84
Summer Dry	Apr 2016–Oct 2016	0	128	128
Winter Dry	Nov 2016–Mar 2017	162	140	61
Summer Dry	Apr 2017–Oct 2017	0	151	151
TOTAL				1,265

*indicates season when allowable number of exceedance days were increased.

VIOLATIONS OF BALLONA CREEK, BALLONA ESTUARY, AND SEPULVEDA CHANNEL BACTERIA TMDL

In 1998, the Ballona Estuary was placed on California’s Clean Water Act Section 303(d) list as impaired due to coliform bacteria.⁹³ In 2002, Ballona Creek was added to the list for the same reason.⁹⁴ The Regional Board adopted the Ballona Creek bacteria TMDL on June 8, 2006, and USEPA approved it on March 26, 2007.⁹⁵ The TMDL was later revised by the Regional Board on June 7, 2012⁹⁶ and USEPA approved the revised version on July 2, 2014.⁹⁷ The Ballona Creek bacteria TMDL sets different limits for each monitoring station based on water type (marine or fresh water) and recreation type (contact or non-contact recreation uses).⁹⁸

The effective date of the Ballona Creek bacteria TMDL is April 27, 2013. However, on May 14, 2015, the Regional Board issued a TSO that significantly raised the threshold for what constitutes a violation⁹⁹ by increasing the number of allowable exceedance days (the number of days a site could exceed limits without triggering a violation of the permit). For example, the Sepulveda Channel monitoring station (BCB-4) recorded 45 exceedances from November 2013 – October 2014. During this time period, the TMDL

provided *one* allowable exceedance, resulting in 44 total violations for that site. That same monitoring station had 36 exceedances from November 2015–October 2016, but had zero violations for that year, because the Regional Board had raised the number of allowable exceedances from one to 48. Because this site is sampled weekly,¹⁰⁰ this increase to 48 allowable exceedance days means that the site could exceed bacteria limits over 92 percent of the time without triggering a violation. Making the situation even more dangerous, the Ballona TSO increased the number of allowable exceedance days in the summer season—when people are more likely to recreate and therefore be harmed by polluted water.

All Ballona sites have a set number of allowable exceedances with the exception of site BCB-1, which had a ten percent exceedance frequency until the May 14, 2015 TSO was issued, which granted BCB-1 a set number.¹⁰¹ BCB-1 through BCB-5 are reported in annual, dry weather periods while BCB-6 through BCB-9 are reported as summer dry, winter dry, and wet weather periods.¹⁰²

Based on NRDC's calculations, since April 27, 2013, there have been **a total of 449 violations** of the Ballona Creek bacteria TMDL. A summary of the total allowable exceedances, actual exceedances, and total violations by

season/year for BCB-1 through BCB-5 and BCB-6 through BCB-9 can be found below in Tables 8 and 9, respectively. A full break down of the violations by station can be found in Appendix III.

TABLE 8: BALLONA CREEK AND BALLONA ESTUARY BACTERIA TMDL ALLOWABLE EXCEEDANCES, ACTUAL EXCEEDANCES, AND TOTAL VIOLATIONS— BCB-1 THROUGH BCB-5

Allowable exceedances are set for each monitoring station and vary for each station. When one station has not met or surpassed its allowable exceedances, this "unused" allowable exceedance cannot be used by another site that has met its limit. For this reason, the total violations cannot be calculated by merely subtracting actual exceedances from the allowable number of exceedances.

SEASON AND WEATHER	DATE	TOTAL ALLOWABLE EXCEEDANCES*	ACTUAL EXCEEDANCES	TOTAL VIOLATIONS
Dry Exceedance	Apr 2013–Oct 2013	4	75	71
Dry Exceedance	Nov 2013–Oct 2014	4	132	128
Dry Exceedance	Nov 2014–May 13, 2015 ¹⁰³	4	34	30
Dry Exceedance	May 14, 2015–Oct 2015	64	48	0
Dry Exceedance	Nov 2015–Oct 2016	146	69	0
Dry Exceedance	Nov 2016–Oct 2017	146	77	0

* This total includes the percentage limit for BCB-1.

TABLE 9: BALLONA CREEK AND BALLONA ESTUARY BACTERIA TMDL ALLOWABLE EXCEEDANCES—BCB-6 THROUGH BCB-9

SEASON AND WEATHER	DATE	TOTAL ALLOWABLE EXCEEDANCES	ACTUAL EXCEEDANCES	TOTAL VIOLATIONS
Summer Dry	Apr 2013–Oct 2013	0	66	66
Winter Dry	Nov 2013–Mar 2014	8	42	34
Summer Dry	Apr 2014–Oct 2014	0	68	68
Winter Dry	Nov 2014–Mar 2015	8	38	30
Summer Dry	Apr 2015–May 13, 2015 ¹⁰⁴	0	10	10
Summer Dry	May 14, 2015–Oct 2015	59	50	3
Winter Dry	Nov 2015–Mar 2016	45	42	2
Summer Dry	Apr 2016–Oct 2016	77	65	6
Winter Dry	Nov 2016–Mar 2017	45	27	0
Summer Dry	Apr 2017–Oct 2017	77	62	1

VIOLATIONS OF MALIBU CREEK AND LAGOON BASINS BACTERIA TMDL

“Several reaches and tributaries to the Malibu Creek and Lagoon were designated as impaired [in 1998 and 2002] and included on the state’s...303(d) list due to excessive amounts of coliform bacteria.”¹⁰⁵ The Regional Board adopted the Malibu Creek bacteria TMDL on December 13, 2004, and USEPA approved it on January 10, 2006.¹⁰⁶ The TMDL was revised and adopted by the Regional Board on June 7, 2012¹⁰⁷ and USEPA approved the revised version on July 2, 2014.¹⁰⁸

Like Ballona, the Malibu Creek and Lagoon bacteria TMDL sets different limits for each monitoring station based on water type (marine or fresh water) and recreation type (contact or non-contact recreation uses).¹⁰⁹

The single monitoring site in Malibu Lagoon is assigned an allowable number of exceedance days for summer dry weather and winter dry weather. These exceedances are detailed in Table 10. Each existing monitoring site in Malibu Creek and its tributaries are assigned an allowable number of exceedance days for annual dry weather. These exceedances are detailed in Table 11.

Based on NRDC's analysis, since December 29, 2012, there have been **a total of 365 violations** of the Malibu Creek bacteria TMDL. A summary of the total allowable exceedances, actual exceedances, and total violations

by season for MCW-1 and the remaining MCW sites we examined can be found in below Tables 10 and 11, respectively. A full breakdown of the violations by station can be found in Appendix III.

TABLE 10: MALIBU LAGOON BACTERIA TMDL ALLOWABLE EXCEEDANCES, ACTUAL EXCEEDANCES, AND TOTAL VIOLATIONS—MCW-1

Allowable exceedances are set for each monitoring station and vary for each station. When one station has not met or surpassed its allowable exceedances, this "unused" allowable exceedance cannot be used by another site that has met its limit. For this reason, the total violations cannot be calculated by merely subtracting actual exceedances from the allowable number of exceedances.

SEASON AND WEATHER	DATE	TOTAL ALLOWABLE EXCEEDANCES	ACTUAL EXCEEDANCES	TOTAL VIOLATIONS
Winter Dry	Dec 2012–Mar 2013	2	4	2
Summer Dry	Apr 2013–Oct 2013	0	3	3
Winter Dry	Nov 2013–Mar 2014	2	4	2
Summer Dry	Apr 2014–Oct 2014	0	3	3
Winter Dry	Nov 2014–Mar 2015	2	11	9
Summer Dry	Apr 2015–Oct 2015	0	2	2
Winter Dry	Nov 2015–Mar 2016	2	7	5
Summer Dry	Apr 2016–Oct 2016	0	2	2
Winter Dry	Nov 2016–Mar 2017	2	4	2
Summer Dry	Apr 2017–Oct 2017	0	9	9

TABLE 11: MALIBU CREEK BACTERIA TMDL ALLOWABLE EXCEEDANCES, ACTUAL EXCEEDANCES, AND TOTAL VIOLATIONS FOR MCW-2 THROUGH MCW-7, MCW-10, 11, 13, AND 16

SEASON AND WEATHER	DATE	TOTAL ALLOWABLE EXCEEDANCES	ACTUAL EXCEEDANCES	TOTAL VIOLATIONS
Dry Exceedance	Dec 2012–Oct 2013	10	84	78
Dry Exceedance	Nov 2013 - Oct 2014	10	97	89
Dry Exceedance	Nov 2014 - Oct 2015	10	81	74
Dry Exceedance	Nov 2015 - Oct 2016	10	63	55
Dry Exceedance	Nov 2016 - Oct 2017	10	38	30

SUMMARY OF 2012 MS4 PERMIT TMDL VIOLATIONS

NRDC's findings reveal the following:

- From December 29, 2012 to October 31, 2017, there have been 1,265 violations of the Santa Monica Bay Beaches dry weather bacteria TMDL, and 365 violations of the Malibu Creek dry weather bacteria TMDL.
- From April 27, 2013 to October 31, 2017, there have been 449 violations of the Ballona Creek dry weather bacteria TMDL.
- These 2,079 bacteria TMDL violations constitute violations of the 2012 Los Angeles County MS4 Permit, none of which have been enforced or otherwise penalized by the Regional or State Board. Further, hundreds of these chronic violations may be subject to mandatory minimum penalties. Taken together, these unenforced violations show that the Board has failed to protect the region's water quality and to ensure clean and safe water for local communities.

Conclusion

Based on NRDC's examination of the Los Angeles Regional Board's enforcement efforts, not only did the Regional Board fail to meaningfully enforce violations over the past 27 years, the majority of the relatively few enforcement actions were rescinded or withdrawn, and none resulted in meaningful financial penalties. In fact, all but one of the penalties collected by the Regional Board were substantially reduced from the maximum penalty. This record of enforcement hardly meets the USEPA's standards and expectation that Regional Water Boards take an aggressive approach to enforcement of the NPDES program.¹¹⁰

Moreover, when permittees fail to comply with the requirements of the Regional Board's initial enforcement, the Regional Board rarely follows its own policy of progressive enforcement to bring escalating, more severe actions to address continuing noncompliance.¹¹¹ When the Regional Board does take subsequent action, it is slow to do so, as demonstrated by the year plus lag time between a first Notice of Violation and a second Notice. Because there has been limited, if any, follow-up or proper escalation, it is unlikely that the Regional Board's enforcement actions have created the deterrence goal outlined in the State Water Board's Enforcement Policy.¹¹² The Enforcement Policy states that "continued noncompliance, particularly after informal actions have been unsuccessful, *will* result in escalation to more formal enforcement;" however, this is hardly the reality.¹¹³

The complete lack of enforcement of these violations demonstrates that the Regional Board has not prioritized the health of our waters or communities.

Meanwhile, NRDC's examination of bacteria TMDL violations confirmed its hypothesis: the Regional Board's lack of enforcement is not due to a lack of violations, as illustrated by the 2,079 violations in a period of less than five years. These unchecked violations, which are just a snapshot of all potential MS4 violations, have direct consequences for human health and environmental quality. The complete lack of enforcement of these violations demonstrates that the Regional Board has not prioritized the health of our waters or communities, particularly during the 2012 MS4 permit period.

Additionally, the TSO issued to Ballona demonstrates the Regional Board's willingness to relax requirements to make compliance easier for permittees.

As a result of our analysis, this report concludes:

- The Regional Board's lack of enforcement of water quality violations has created a culture of non-compliance among permittees, while pollution goes unabated and continues to jeopardize public health and the environment.
- The Regional Board's lack of enforcement violates the State Board's Enforcement Policy and the Memorandum of Agreement between USEPA and the State Board.

These unenforced violations not only have significant public health consequences, including the economic burden of health costs, and allow pollution and polluters to go completely unchecked, but they also represent missed opportunities to collect penalties that can be used to address water quality issues. In lieu of penalties, the Regional Board also could have allowed for the development of Supplemental Environmental Projects (SEPs), environmentally beneficial projects that could help address the cause of a violation while also creating multiple community benefits.¹¹⁴

The Regional Board must fulfill its enforcement duties as outlined in the State Board's Enforcement Policy if runoff-related pollution will ever be addressed in the region. Measure W, a ballot initiative recently passed by Los Angeles County voters, also presents a unique opportunity to address the number one source of pollution of the Region's surface waters by creating a steady funding source for runoff-related projects in the County. When coupled with proper enforcement of the Region's MS4 permit, this funding, which will generate approximately \$300 million annually, will help permittees come into compliance and thereby improve the region's water quality.¹¹⁵

Going forward, we recommend that the Regional Board take the following actions:

- Provide annual updates to Regional Board members regarding stormwater violations, with more frequent updates on repeat offenders such as those listed at the beginning of this report.
- Adhere to the Enforcement Policy by consistently and progressively addressing MS4 permit violations via enforcement, including mandatory minimum penalties where applicable.

- Create an easily enforceable MS4 permit in 2019, which includes numeric limits and removes safe harbors.
- Devote significantly more resources to investigations and enforcement, including a full-time employee and increased legislative budget allocations if needed.
- To ease the burden on the Regional Board, all permittees should be required to submit monitoring reports in the same format, and monitoring site names should remain consistent. If site identifiers change it should be made clear in monitoring reports.
- To further aid transparency, permittees' monitoring reports should be easily accessible and searchable on the Regional Board's website, and enforcement action timelines, including any required next steps or responses, or their resolution, should also be outlined and easily accessible online.

- Educate permittees on the effective use of Measure W funds to increase resources for the implementation of stormwater projects.

Without the threat of meaningful enforcement, there is little to no incentive for dischargers to comply with permit limits designed to protect water quality. It is thus unsurprising that urban runoff remains the leading cause of water quality impairment in the Los Angeles region. The Regional Board must address MS4 violations through robust enforcement if it is ever to achieve its mission to “preserve, enhance, and restore the quality of California’s water resources.”¹¹⁶

Appendix I: MS4 Permitting History

FEDERAL AND STATE STORMWATER REGULATION

The 1972 amendments to the Clean Water Act established the National Pollutant Discharge Elimination System (NPDES) program, which prohibits the discharge of any pollutant from a point source into the nation's waters unless authorized by a permit.¹¹⁷ A "point source" is defined as any "discrete conveyance," such as a pipe or channel.¹¹⁸ Although Congress intended the 1972 amendments to cover urban stormwater point source discharges, EPA unsuccessfully attempted to exempt those discharges from the NPDES program.¹¹⁹

In 1987, Congress formally recognized the growing threat that urban runoff posed to the nation's waters and the inadequacy of EPA's regulations, and amended the Clean Water Act to specifically bring stormwater discharges from municipal sources into the NPDES program.¹²⁰ Regulations for the NPDES municipal stormwater program were developed in two phases. The Phase I Stormwater Rules, finalized in 1990, require NPDES permits for operators of "medium" and "large" MS4s, which include cities or counties serving populations of 100,000 or more.¹²¹ The Phase II Stormwater Rules, finalized in 1999, expanded the NPDES permitting requirements to smaller MS4s, which serve populations fewer than 100,000.¹²² NPDES permits must be renewed every five years.¹²³

Section 402 of the Clean Water Act governs the NPDES program and allows states to assume NPDES permitting authority subject to EPA approval and oversight.¹²⁴ California is one of forty-six¹²⁵ states with delegated authority under the Act to administer the NPDES permitting program.¹²⁶ California's Porter-Cologne Water Quality Control Act (Porter-Cologne Act) authorizes the State Water Board, through the nine Regional Water Boards, to regulate and control the discharge of pollutants into waters of the state through the issuance of NPDES permits.¹²⁷

The Clean Water Act also requires each state to identify beneficial uses for all waters in the state and set water quality standards that protect those various uses.¹²⁸ For example, California waters designated as "water contact recreation" (REC-1), are waters that are historically or potentially used for swimming, surfing, diving, and other activities that risk ingesting water.¹²⁹ When waterbodies fail to support their beneficial uses, the Water Boards are required by section 303(d) of the Clean Water Act to add that water body to a list of "impaired" waterbodies (waterbodies that do *not* meet water quality standards) and to establish total maximum daily loads (TMDLs) for that waterbody.¹³⁰

TMDLs put dischargers on a "pollution diet" and represent the total amount of a given pollutant that can be added to a waterbody without exceeding the applicable water quality standard.¹³¹ Each point source that discharges to the waterbody is assigned a "waste load allocation," which is the maximum amount of a pollutant that a point source is allowed to release into that water body.¹³² MS4 permits for discharges to impaired waterbodies having TMDLs must include effluent limits consistent with the waste load allocations for that TMDL.¹³³ Both the state's section 303(d) list of impaired waters and TMDLs need to be approved by EPA.¹³⁴

HISTORY OF PHASE I MS4 PERMITTING IN THE LOS ANGELES REGION

The Los Angeles Regional Board currently regulates discharges from medium and large MS4s within its jurisdiction through the issuance of three NPDES permits: the Los Angeles County MS4 Permit, the Long Beach MS4 Permit, and the Ventura County MS4 Permit.

Los Angeles County MS4 Permit

In 1990, the Regional Board issued its first Phase I MS4 permit for Los Angeles County, which covered discharges for the County of Los Angeles, the Los Angeles County Flood Control District, and the incorporated cities within the County.¹³⁵ The Regional Board reissued the permit in 1996 and again in 2001.¹³⁶ The 2001 Permit expired in 2006 but was administratively extended for an additional six years.¹³⁷ It was subsequently amended in 2006, 2007, and 2009 to incorporate provisions to implement three TMDLs,¹³⁸ and further amended in 2011 per a court order.¹³⁹ The Regional Board finally adopted a new permit in 2012 that, among other things, incorporated provisions to implement thirty-three TMDLs.¹⁴⁰ The 2012 Permit was amended by the State Water Board in 2015 as a result of an administrative appeal of the permit, and again in 2016 to incorporate provisions consistent with two revised TMDLs.¹⁴¹ The amended 2012 Permit is the current permit in effect for Los Angeles County.

Long Beach MS4 Permit

The City of Long Beach was initially included in the Los Angeles County MS4 permit.¹⁴² Following the adoption of the 1996 Los Angeles County Permit, the City of Long Beach requested its own MS4 permit and as a result, the Regional Board issued a separate MS4 permit to Long Beach in 1999.¹⁴³ The 1999 Long Beach MS4 Permit expired in 2004, but was administratively extended for twice the length of the permit term, or ten years,

until 2014.¹⁴⁴ The 2014 Permit was amended in 2016 to incorporate provisions of a revised TMDL and remains in effect until a new permit is adopted by the Regional Board.¹⁴⁵

Ventura County MS4 Permit

The Regional Board issued the first MS4 permit for Ventura County in 1994¹⁴⁶ and the permit was renewed in 2000 and again in 2009.¹⁴⁷ Following an administrative appeal of the 2009 Permit to the State Water Board, the Regional Board amended the permit in 2010.¹⁴⁸ The 2009 Permit remains in effect until a new permit is adopted.

Appendix II: Enforcement Authority and Enforcement Action Details

BOARD ENFORCEMENT AUTHORITY

The Porter-Cologne Act establishes the responsibilities and authorities of the nine Regional Water Boards and State Water Board. The Act identifies the Water Boards as “the principal State agencies with primary responsibility for the coordination and control of water quality.”¹⁴⁹ To carry out that responsibility, the Water Boards are given the authority to both implement and enforce water quality laws, regulations, policies, and plans.¹⁵⁰ Enforcement is critical to the success of the water quality program, as well as to protect public health and the environment.¹⁵¹ To this end, the Porter-Cologne Act conferred broad enforcement authority upon the Water Boards by making available a suite of administrative and judicial enforcement tools to ensure compliance with state and federal water quality requirements.

In delegating to the State Board the authority to administer the federal NPDES program, USEPA affirmed that the primary authority to enforce all NPDES permits rests with the State and Regional Water Boards.¹⁵² This authority is memorialized in a Memorandum of Agreement between USEPA and the State Board. This document also requires the State Board to “assure that enforcement of the NPDES program is exercised aggressively, fairly, and consistently by all nine Regional Boards.”¹⁵³ Specifically, the Regional Boards are responsible for “taking timely and appropriate enforcement actions in accordance with the [Clean Water Act], applicable Federal regulations, and State Law...”¹⁵⁴

The Water Boards’ stated approach to enforcement is outlined in the State Board’s Water Quality Enforcement Policy. While the Regional Boards have primary responsibility for enforcement matters within their regions, the State Board has oversight authority over the Regional Boards’ enforcement actions. Moreover, an aggrieved member of the public can petition the State Board to review certain Regional Board enforcement actions.¹⁵⁵ The State Board may also take enforcement action in lieu of the Regional Board under specific circumstances.¹⁵⁶

The Enforcement Policy makes clear that the principal goal of enforcement is to encourage compliance with pollution control requirements so that water quality is protected.¹⁵⁷ “The Water Boards’ regulatory effort promotes compliance by ensuring that permits are enforceable, by conducting inspections, by reviewing discharger self-monitoring reports, investigating complaints, and addressing non-compliance with enforcement.”¹⁵⁸ The enforcement component of the Water Board’s regulatory framework focuses on “documenting

and tracking violations, initiating formal and informal enforcement [actions], coordinating with law enforcement and regulatory agencies...[and] monitoring and reporting on the effectiveness of the Water Boards’ enforcement actions.”¹⁵⁹ According to the Enforcement Policy, “[e]nforcement is a critical ingredient in creating the deterrence needed to encourage the regulated community to anticipate, identify, and correct violations.”¹⁶⁰

A main objective of the Enforcement Policy is to define an enforcement process that properly addresses violations “in the most fair, efficient, effective, and consistent manner.”¹⁶¹ To ensure the most efficient and effective use of available resources, the Water Boards rely on the principle of progressive enforcement, which involves ranking violations and using escalating levels of enforcement actions, beginning with informal actions as simple as a phone call or staff letter, followed by increasingly more formal, severe, and forceful actions until compliance is achieved.¹⁶² Lastly, it is a fundamental goal of the Water Boards to provide “consistent treatment for violations that are similar in nature and have similar water quality impacts.”¹⁶³

The Water Boards have a variety of enforcement tools at their disposal; some enforcement options are considered discretionary while others are mandatory.¹⁶⁴ Moreover, enforcement actions are categorized as either “informal” or “formal” and are discussed in further detail below.

Informal Enforcement Actions

An informal enforcement action is “any enforcement action taken by Water Board staff that is not defined in statute or regulation.”¹⁶⁵ The purpose of informal actions is to promptly bring a violation – actual, threatened, or potential – to a discharger’s attention to provide an opportunity to address the violation and come into compliance as soon as possible.¹⁶⁶ Importantly, the Enforcement Policy states that “continued noncompliance, particularly after informal actions have been unsuccessful, *will* result in escalation to more formal enforcement.”¹⁶⁷ Informal actions include oral and written contacts, Notices of Violation, and non-statute-based requests.

Oral and Written Contacts: Board staff can contact the discharger by phone, in person, or via letter/email, to inform the discharger of the specific or potential violation(s), “discuss how and why the violation(s) has occurred or may occur...and should ask how and when the discharger will correct the violation(s) and achieve compliance.”¹⁶⁸ Phone or in-person conversations must be documented in the enforcement database.¹⁶⁹ Letters and emails require a prompt response—either in the

form of an email or a formal written letter—and a certification from the discharger that the violation has been corrected.¹⁷⁰ Actual correction of the violation must be recorded in the enforcement database.¹⁷¹

Notices of Violation and Requests for Information:

A Notice of Violation (NOV) letter is issued to a discharger when a violation has already occurred. The Notice of Violation letter must “include a description of the specific violation(s), a summary of potential enforcement options (including potential ACL [administrative civil liability] assessments), and a request for a certified, written response by a specified date that either confirms the violation has been corrected or identifies a date by when the violation will be corrected.”¹⁷² A Notice of Violation can be combined with a request for technical information or similar requests.¹⁷³

Formal Enforcement Actions

Formal enforcement actions may be taken simultaneously with informal actions or as the first response. “Formal enforcement actions are statute-based actions to address a violation or threatened violation of water quality laws, regulations, policies, plans, or orders.”¹⁷⁴ Formal actions that impose or conditionally impose penalties are considered “major” enforcement actions. Formal enforcement actions include the following (in order of increasing severity):

Notices to Comply: A Notice to Comply is the only means by which a Water Board can commence a formal enforcement action for a “minor” violation.¹⁷⁵ The State Board or Regional Board determines if a violation is minor after considering various factors defined in California Water Code § 13399(e) and (f), such as the danger or the potential danger the violation poses to human health, safety, or the environment.¹⁷⁶ A Notice to Comply must state the nature of the violation, the means by which the violation will be addressed, and a time limit (not to exceed 30 days) by which to comply.¹⁷⁷ Nothing precludes the Water Boards from imposing a civil penalty for minor violations if circumstances warrant that action, and especially if the discharger fails to achieve compliance within the required timeframe.¹⁷⁸

Technical Reports and Investigations: Pursuant to California Water Code §§ 13267(b) and 13383, the Boards may conduct investigations and require technical or monitoring reports from any discharger or potential discharger. The Board must explain, in writing, the need for the reports and identify the evidence supporting that need.¹⁷⁹ Failure to comply with these requirements may result in the imposition of an ACL.¹⁸⁰

Cleanup and Abatement Orders (CAO): A CAO may be issued to any discharger that has violated or threatens to violate a permit—or other order or prohibition—issued

by the Water Boards.¹⁸¹ A CAO requires the discharger to clean up the pollution, abate the effects of the pollution, or both.¹⁸² In the case of threatened pollution or nuisance,¹⁸³ the discharger is required to “take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement orders.”¹⁸⁴ If the discharger violates a CAO, it “should trigger further enforcement in the form of an ACL complaint, a Time Schedule Order pursuant to Water Code § 13308, or a referral to the Attorney General for injunctive relief or monetary remedies.”¹⁸⁵

Time Schedule Orders (TSO): “[A] Regional Water Board can require [a] discharger to submit a time schedule that sets forth the actions the discharger will take to address actual or threatened illegal discharges of waste...”¹⁸⁶ Alternatively, a Board can issue a “13308” TSO “that prescribes, in advance, a civil penalty if compliance is not achieved in accordance with the time schedule...The Regional Water Board may issue a section 13308 TSO if there is a threatened or continuing violation of a CAO, a cease and desist order, or any requirement” pursuant to Water Code §§ 13267 and 13383.¹⁸⁷ Failure to comply with a section 13308 TSO may result in the imposition of an ACL.¹⁸⁸

Cease and Desist Orders (CDO): A CDO is an administrative order requiring dischargers to stop polluting or face tougher legal penalties. “CDOs may be issued to dischargers violating or threatening to violate waste discharge requirements (WDR) or prohibitions prescribed by the Regional Water Board or the State Water Board.”¹⁸⁹ Further, “[v]iolations of CDOs should trigger further enforcement in the form of an ACL, 13308 TSO, or referral to the Attorney General for injunctive relief or monetary remedies.”¹⁹⁰

Administrative Civil Liabilities (ACL) Complaints: ACLs are fines administratively imposed by the Water Boards. Various sections in the California Water Code specify instances of noncompliance where ACL complaints may be issued.¹⁹¹ According to the State Board’s Enforcement Policy, ACL penalties should be calculated consistently, should deter further violations by both the responsible party and similarly situated entities, and “bear a reasonable relation to the gravity of the violation and the harm or potential for harm to beneficial uses.”¹⁹² Further, the State Board’s Enforcement Policy recognizes that in court, the defendant has the burden to “demonstrate that the penalty should be less than the statutory maximum.”¹⁹³ Within ninety days of serving a discharger with an ACL complaint, a hearing before the Regional or State Board must be conducted.¹⁹⁴ However, a discharger may waive their right to a hearing, thereby not contesting the fine.¹⁹⁵ The State Water Board’s Enforcement Policy establishes a penalty calculation methodology for assessing ACLs.¹⁹⁶

Mandatory Minimum Penalties

While the Boards have discretion to take any of the enforcement actions described above, the Porter-Cologne Act imposes mandatory enforcement obligations in some circumstances. Pursuant to California Water Code § 13385(h) and (i), mandatory minimum penalties (MMPs) are required for certain violations of NPDES permits. The Water Boards, for example, must assess a minimum penalty of \$3,000 for each serious violation.¹⁹⁷ A “serious violation” is defined in Water Code §§ 13385(h)(2) and 13385.1, and includes a waste discharge of a Group I pollutant that exceeds an effluent limitation by 40 percent or more,¹⁹⁸ or a failure to file a discharge monitoring report, for example.¹⁹⁹

In order to address chronic violations, the Water Boards are also required to assess a minimum penalty of \$3,000 for each non-serious violation. A non-serious violation occurs when a discharger:

- (a) Violates a waste discharge requirement (WDR) effluent limitation;
- (b) Fails to file a report of waste discharge pursuant to California Water Code section 13260;
- (c) Files an incomplete report of waste discharge pursuant to California Water Code section 13260; or,
- (d) Violates a whole effluent toxicity effluent limitation where the WDRs do not contain pollutant-specific effluent limitations for any toxic pollutants.²⁰⁰

These actions by a discharger must occur four or more times in a 180-day period (although the penalty calculation does not include the first three violations).²⁰¹ The 2012 Los Angeles County MS4 Permit sets out “waste discharge requirements for...MS4 discharges...” and the Order itself “serves as waste discharge requirements...pursuant to article 4, chapter 4, division 7 of the California Water Code...”²⁰² The Regional Board has recognized TMDLs as water-quality based effluent limitations and has defined effluent limits as a numeric restriction on the quantity or concentration of pollutants.²⁰³ For these reasons, certain violations of the MS4 permit are subject to MMPs.

LOS ANGELES REGIONAL BOARD ENFORCEMENT ACTIONS FROM 1990–MARCH 2018

Administrative Civil Liability Complaints (ACLs)

During the time period we examined, the Regional Board issued just five ACL complaints. All but one of these ACLs were substantially reduced from the maximum penalty; the one ACL that was not reduced was a mandatory minimum penalty issued for failure to submit an annual report. The largest recommended penalty, for \$274,896, was ultimately withdrawn by the Regional Board.

City of Pomona and County Department of Public Works

In April 1998, the Regional Board issued an ACL complaint against the City of Pomona for failing to comply with reporting requirements.²⁰⁴ Regional Board staff notified the City of Pomona of its violation on March 9, 1998 through a Notice of Noncompliance.²⁰⁵ The City failed to submit the Annual Report by the final submittal date indicated in the Notice, which ultimately resulted in the Board’s issuance of the ACL complaint.²⁰⁶ The recommended penalty was \$6,700, whereas the statutory maximum penalty totaled \$1,690,000.²⁰⁷ The Board cited three reasons for reducing the penalty: “substantial” costs to comply, the City’s lack of previous violations, and the City’s reduced staff. While the ACL was issued to the City of Pomona, the Board indicated that the discharger was the County Department of Public Works, and that the assessed liability of \$6,700 was paid by the County Department of Public Works on May 14, 1998.²⁰⁸

City of Los Angeles

On September 24, 2003, the Regional Board issued an ACL complaint against the City of Los Angeles for discharging 360 gallons of colorant-laden waste water to the Los Angeles River, in violation of the 2001 Los Angeles County MS4 Permit.²⁰⁹ The issuance of this complaint was preceded by a Notice of Violation and Request for Information,²¹⁰ both of which were sent to the City on May 2, 2003. The recommended penalty was \$4,310, reduced from the statutory maximum penalty amount of \$10,000.²¹¹ The Regional Board gave the City the option of paying up to \$3,233 of the civil liability by contributing to a Supplemental Environmental Project and paying the rest to the State Water Board’s Cleanup and Abatement Account.²¹² The Regional Board’s Compliance and Enforcement Office confirmed that the entire suggested penalty amount of \$4,310 was paid by the City of Los Angeles to the State Board’s Cleanup and Abatement Account.²¹³

Los Angeles County Flood Control District

In February 2010, the Regional Board issued an ACL complaint against the Los Angeles County Flood Control District for exceeding bacteria TMDL limits in the Marina del Rey Harbor Mothers’ Beach and Back Basins, in violation of the 2001 Los Angeles County MS4 Permit.²¹⁴ The Regional Board issued the ACL because the District allegedly failed to address the illegal discharges despite having ample notice to do so: in 2007, the District received an Investigative Order, in 2008 it received a Notice of Violation, and finally a Second Notice of Violation requesting supplemental reports was issued in 2009. The recommended penalty was \$274,896, reduced from the statutory maximum penalty amount of \$22,158,000. The complaint, however, was eventually withdrawn by the Regional Board.²¹⁵

City of Torrance

In January 2009, the Regional Board issued an ACL complaint against the City of Torrance for violations of best management practices and unauthorized non-stormwater discharges, in violation of the 2001 Los Angeles County MS4 Permit requirements.²¹⁶ The issuance of the complaint was preceded by a Notice of Violation in January 2006, a Second Notice of Violation sent in October 2006, and a Third Notice of Violation sent in May 2007.²¹⁷ The assessed liability was \$87,455, reduced from the statutory maximum penalty amount of \$140,000.²¹⁸ The City and the Regional Board eventually reached a settlement agreement that imposed a penalty of \$52,455.²¹⁹ The Regional Board approved the agreement and adopted the proposed Order on December 9, 2009.²²⁰ The Regional Board indicated that the City paid the penalty on February 8, 2010.²²¹

City of South El Monte

In June 2017, the Regional Board settled an ACL complaint with the City of South El Monte for its failure to submit an annual report pursuant to the 2012 Los Angeles County MS4 permit. An NOV, which was sent to the City on July 29, 2016, preceded the settlement and detailed three previous notices that were sent to the City of South El Monte.²²² The City submitted a Request for Alleged Violation Review on March 8, 2017 and the Regional Board issued a response to the City on April 11, 2017.²²³ The mandatory minimum penalty of \$21,000 was paid by the City of South El Monte on June 1, 2017.²²⁴

Requests for Technical Reports and Investigation

The Board uses several different names for requests falling under this category: “Requests for Information,” “Request for Investigation,” “Requirement to Submit Information,” “Requirement to Provide Information,” or “Investigative Order.” A Notice of Violation is often accompanied by a Request for Information, but based on our review of enforcement actions, it appears as though the Regional Board will issue Requests for Information without an NOV in some circumstances. The Regional Board issued 46 Requests for Information and rescinded 19, for a total of 27 during the period we examined. These Requests were issued in response to exceedances of water quality objectives.

The first Request for Information was issued on May 2, 2003 to the City of Los Angeles.²²⁵ This was accompanied by an NOV and on September 24, 2003, an ACL was issued, discussed above.²²⁶ 23 Requests (including one rescinded request²²⁷) were issued on 12 different dates in 2006 and 2007.²²⁸ 21 Requests were issued on March 4, 2008 for violations of TMDLs included in the 2001 Los Angeles County MS4 Permit.²²⁹ Each of these Requests was accompanied by an NOV.²³⁰ 20 of the original recipients did not comply with the Request and were sent Second Notices of Violation.²³¹ All of the Second NOVs were issued by the Regional Board over a year

and a half after the initial NOVs, on October 15, 2009.²³² In these Second Notices of Violation, the Regional Board concluded that the permittees were in continuing violation of the 2001 Los Angeles County MS4 Permit and directed permittees to submit supplemental reports to correct the deficiencies of their first reports.²³³ The Board informed the permittees that their failure to comply with the requirements of the Second Notice of Violation “will be met with the institution of formal enforcement proceedings, and without further notice.”²³⁴ A year later, in October of 2010, the Regional Board rescinded 18 NOVs and partially rescinded three because of a successful court challenge by the County.²³⁵ It is unknown how the three partially-rescinded NOVs from March 4, 2008 were resolved, if at all. The remaining Request was issued to the City of Los Angeles on August 11, 2014, in response to MS4 discharges due to a water main break.²³⁶ The Order was amended on September 22, 2014 to allow an additional month to comply, and it appears the City complied with this Order.²³⁷

Notices to Comply

The Regional Board issued seven Notices to Comply,²³⁸ six of which were issued on July 3, 2002. These six Notices to Comply were issued to Alhambra, Beverly Hills, Downey, the City of Industry, Lynwood City, and Rolling Hills. The remaining Notice to Comply was issued to the County of Los Angeles on April 10, 2000. These actions were found via the CIWQS database; it is unclear whether these Notices were addressed by the permittees.

Requests for Information

The Regional Board issued four informal Requests for Information, all on June 10, 2016. Three were issued for information regarding implementation of the trash TMDL²³⁹ and the final Request for Information was issued to Oxnard on June 10, 2016 in follow up to a sewage spill.²⁴⁰ It is unclear based on our review of relevant documents and the CIWQS database whether permittees ever complied with these four Requests for Information. These Requests were categorized as informal (as opposed to formal Requests for Technical Reports and Investigation) because the letters sent by the Board did not cite relevant code sections or otherwise indicate the Request was statute-based.

Notices of Violation

Since 1990, the Regional Board has issued a total of nine stand-alone initial Notices of Violation, three of which were later rescinded. Two eventually resulted in an ACL (see the discussion of Torrance and South El Monte ACLs above). The other seven NOVs were issued on February 8, 2012 to permittees of the 2001 Los Angeles County MS4 Permit for failure to submit a Trash TMDL Compliance Report that was due October 31, 2011.²⁴¹ The Regional Board directed the permittees to immediately comply by submitting the report within 30 days of receiving

the Notice. The Notices further stated that pursuant to Water Code § 13385, assessment of a minimum mandatory penalty of \$3,000 is required for each serious violation (which includes a failure to submit a monitoring report), and that permittees are also subject to discretionary ACLs of up to \$10,000 for each day the permittee fails to submit the report.²⁴² The Regional Board also reserved the right to refer the matter to the Attorney General or to take any further enforcement actions authorized by law.²⁴³

Notices of Violation issued to three of the cities; Duarte, El Monte, and San Gabriel; were ultimately rescinded because the Regional Board verified that those cities had indeed submitted a compliance report on time.²⁴⁴ It is

unclear why the Board was unaware that these reports were in fact previously submitted. The Regional Board has confirmed that no further enforcement actions were taken against the four remaining cities, despite the fact that Calabasas, Cudahy, Montebello, and Pico Rivera never submitted the relevant compliance reports.²⁴⁵ The Regional Board did indicate, however, that the cities submitted reports for the following year.²⁴⁶ These compliance reports are part of the 2001 MS4 permit's monitoring and reporting requirements, and were therefore subject to Mandatory Minimum Penalties, as acknowledged by the Board in its original NOV.²⁴⁷

ENFORCEMENT ACTION	ALLEGED VIOLATOR	FOLLOW UP ACTION
Administrative Civil Liability	County of Los Angeles, Pomona	
Request for Information	City of Los Angeles	NOV issued same day, ACL issued Sept 24, 2003
Request for Information	City of Los Angeles	
Notice of Violation	City of Torrance	2nd NOV issued Oct 6, 2006; 3rd NOV issued May 11, 2007; ACL issued Jan 30, 2009
Notice of Violation	City of Calabasas	
Notice of Violation	City of Cudahy	
Notice of Violation	City of Duarte	WITHDRAWN
Notice of Violation	City of El Monte	WITHDRAWN
Notice of Violation	City of Montebello	
Notice of Violation	City of Pico Rivera	
Notice of Violation	City of San Gabriel	WITHDRAWN
Notice of Violation	City of South El Monte	ACL issued on Jun 23, 2017
Notice to Comply	County	
Notice to Comply	Alhambra	
Notice to Comply	Beverly Hills	
Notice to Comply	Downey	
Notice to Comply	City of Industry	
Notice to Comply	Lynwood	
Notice to Comply	Rolling Hills	
Request for Information	County of Los Angeles	
Request for Information	City of Santa Monica	
Request for Information	City of Redondo Beach	
Request for Information	County of Los Angeles	

ENFORCEMENT ACTION	ALLEGED VIOLATOR	FOLLOW UP ACTION
Request for Information	County of Los Angeles	
Request for Information	County of Los Angeles	
Request for Information	City of Redondo Beach	
Request for Information	County of Los Angeles	
Request for Information	City of Los Angeles	
Request for Information	County of Los Angeles	
Request for Information	City of Manhattan Beach	
Request for Information	City of Los Angeles	
Request for Information	City of Redondo Beach	
Request for Information	County of Los Angeles	
Request for Information	City of Manhattan Beach	WITHDRAWN
Request for Information	County of Los Angeles	
Request for Information	City of Santa Monica	
Request for Investigation	City of Santa Monica, County, FCD	
Request for Investigation	County, FCD, El Segundo, Manhattan Beach	
Request for Investigation	City of Los Angeles, FCD, CalDOT	
Request for Information	County of Los Angeles	
Investigative Order	County of Los Angeles Flood Control District	I3267 Order. 1st NOV Issued 3/4/08, 2nd NOV Issued on Oct 15, 2009; ACL 2/18/2010 Partially Rescinded
Requirement to Provide Information	City of Agoura Hills	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of Beverly Hills	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of Calabasas	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of Los Angeles	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; Partially Rescinded
Requirement to Provide Information	City of El Segundo	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of Hermosa Beach	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of Hidden Hills	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of Inglewood	NOV issued same day; Petition Filed; RESCINDED
Requirement to Provide Information	County of Los Angeles	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; Partially Rescinded
Requirement to Provide Information	City of Malibu	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of Manhattan Beach	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of Palos Verdes Estates	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of Rancho Palos Verdes	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of Redondo Beach	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of Rolling Hills Estates	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of Rolling Hills	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED

ENFORCEMENT ACTION	ALLEGED VIOLATOR	FOLLOW UP ACTION
Requirement to Provide Information	City of Santa Monica	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of Torrance	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of West Hollywood	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of Westlake Village	NOV issued same day; 2nd NOV Issued on Oct 15, 2009; RESCINDED
Requirement to Provide Information	City of Culver City	NOV issued same day; Petition Filed; Partially Rescinded
Investigative Order	City of Los Angeles	
Request for Information (informal)	San Gabriel	
Request for Information (informal)	Rosemead	
Request for Information (informal)	San Fernando	
Request for Information (informal)	Oxnard	
Time Schedule Order	City of Los Angeles	Amended 8/9/17
Time Schedule Order	County of Los Angeles, FCD, LA	
Time Schedule Order	City of Los Angeles, County, FCD, Beverly Hills, Culver City, Inglewood, West Hollywood	

LEGEND FOR ENFORCEMENT ACTIONS:

■ Enforcement Action Rescinded /Withdrawn

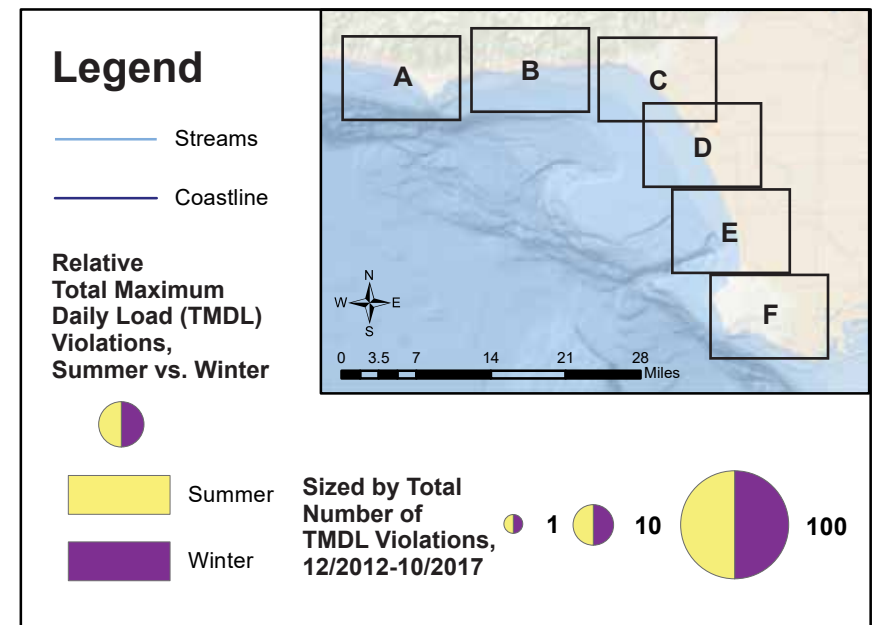
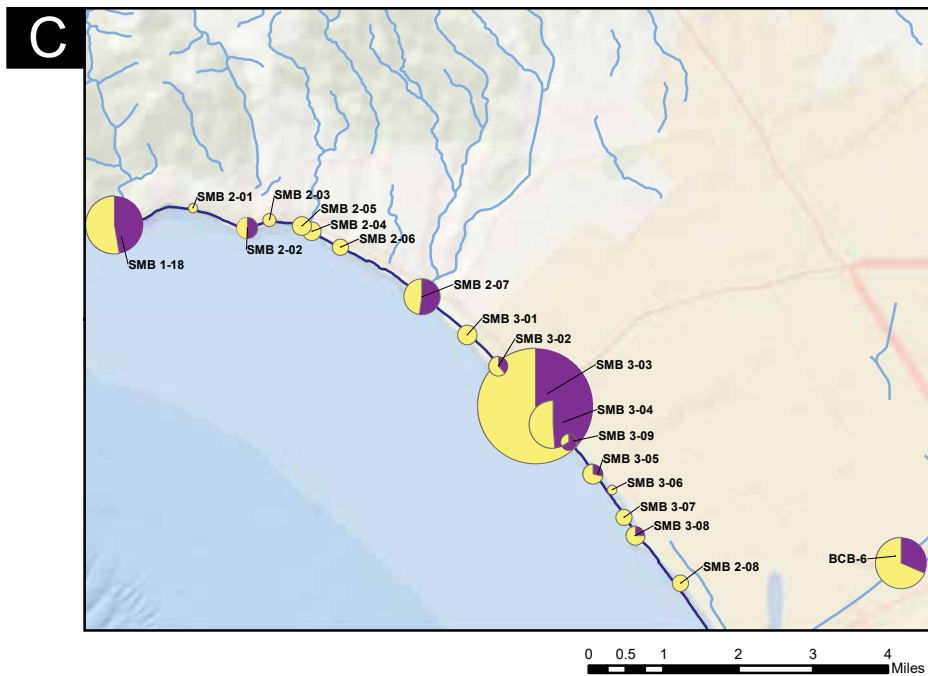
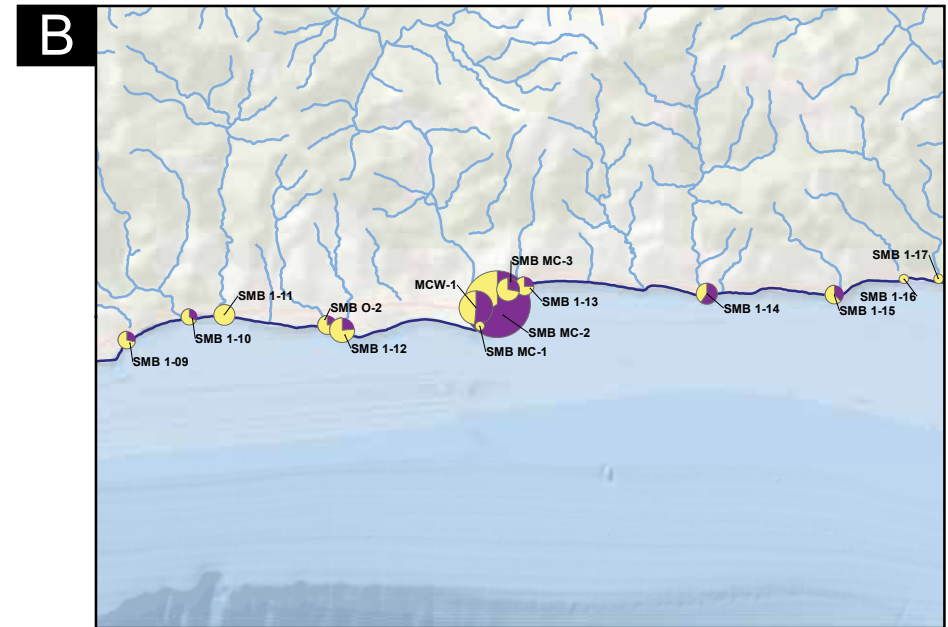
■ Enforcement Action Partially Rescinded

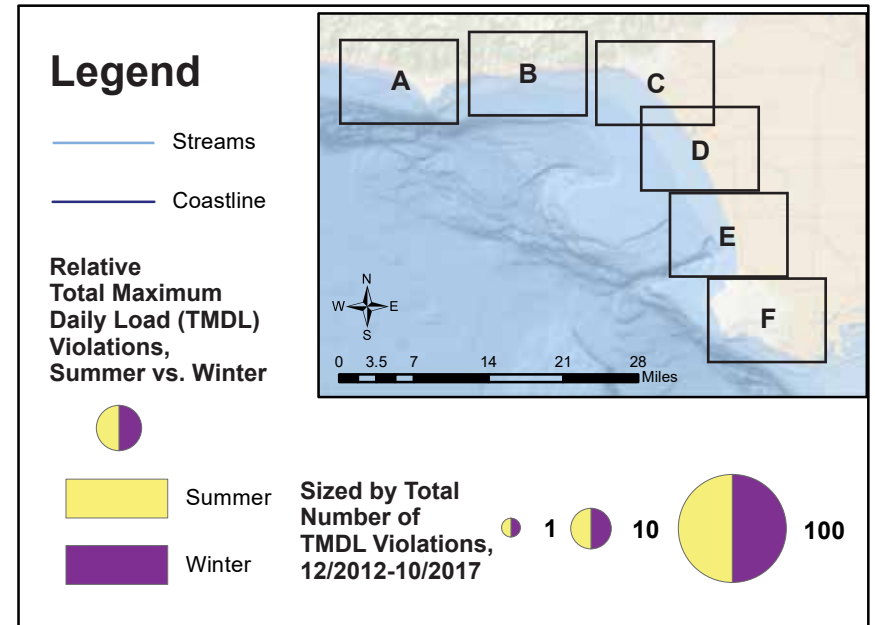
■ ACL Issued

Appendix III: Violations Maps and Details

Summer TMDL Violations vs. Winter TMDL Violations from December 2012 to October 2017

1 of 2





SMBB Total number of violations:	1265
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[illegible]

Total number of prisoners (Dec 2013 - Oct 2017)																																																																		
4	3	6	2	0	9	2	7	3	5	21	4	5	8	1	1	114	1	10	2	4	12	3	44	3	7	4	3	3	8	2	4	13	13	455	78	14	1	6	12	3	1	7	18	4	1	4	29	29	10	8	9	9	0	1	2	0	0	3	1	1	42	1	151	18	12	4

BCB Bacterial TMDL Monitoring Stations Summary by Seasons

BCB Total number of violations:	449
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SUMMER - DRY EXCEEDANCE DAYS (Apr 2013 - Oct 2013)						
Month	Year	BCB-1	BCB-2	BCB-3	BCB-4	BCB-5
APR	2013	0	0	0	0	0
MAY	2013	0	1	0	3	2
JUN	2013	1	1	3	4	2
JUL	2013	2	4	2	4	3
AUG	2013	0	3	4	5	3
SEP	2013	2	4	2	4	3
OCT	2013	1	3	2	5	2
TOTAL EXCEEDANCES		6	16	13	25	15
ALLOWANCES		0	1	1	1	1
NUMBER OF VIOLATIONS		6	15	12	24	14

DRY EXCEEDANCE DAYS (Nov 2013 - Oct 2014)						
Month	Year	BCB-1	BCB-2	BCB-3	BCB-4	BCB-5
NOV	2013	0	2	2	3	1
DEC	2013	0	2	3	3	1
JAN	2014	0	3	1	5	2
FEB	2014	0	1	0	3	0
MAR	2014	0	3	3	4	2
APR	2014	0	2	1	2	1
MAY	2014	0	3	3	4	3
JUN	2014	0	0	3	4	2
JUL	2014	0	4	5	4	3
AUG	2014	0	4	3	4	4
SEP	2014	1	4	4	4	2
OCT	2014	0	4	3	5	2
TOTAL EXCEEDANCES		1	32	31	45	23
ALLOWANCES		0	1	1	1	1
NUMBER OF VIOLATIONS		1	31	30	44	22

DRY EXCEEDANCE DAYS (Nov 2014 - May 13, 2015)						
Month	Year	BCB-1	BCB-2	BCB-3	BCB-4	BCB-5
NOV	2014	0	2	2	4	2
DEC	2014	0	1	2	2	1
JAN	2015	0	1	1	4	0
FEB	2015	0	1	0	2	0
MAR	2015	0	0	0	3	2
APR	2015	0	0	0	3	0
13-May	2015	0	0	0	1	0
TOTAL EXCEEDANCES		0	5	5	19	5
ALLOWANCES		0	1	1	1	1
NUMBER OF VIOLATIONS		0	4	4	18	4

DRY EXCEEDANCE DAYS (May 14, 2015 - Oct 2015)						
Month	Year	BCB-1	BCB-2	BCB-3	BCB-4	BCB-5
14-May	2015	0	0	2	2	1
JUN	2015	1	1	3	4	0
JUL	2015	0	2	3	4	3
AUG	2015	0	1	1	4	1
SEP	2015	0	2	0	2	1
OCT	2015	0	1	3	4	2
TOTAL EXCEEDANCES		1	7	12	20	8
ALLOWANCES		5	13	13	22	11
NUMBER OF VIOLATIONS		0	0	0	0	0

DRY EXCEEDANCE DAYS (Nov 2015 - Oct 2016)						
Month	Year	BCB-1	BCB-2	BCB-3	BCB-4	BCB-5
NOV	2015	1	0	1	3	1
DEC	2015	0	0	3	3	2
JAN	2016	0	0	0	2	0
FEB	2016	0	0	1	1	0
MAR	2016	0	0	1	1	1
APR	2016	0	0	1	2	0
MAY	2016	0	0	1	4	0
JUN	2016	0	0	0	4	2
JUL	2016	0	0	2	4	1
AUG	2016	0	0	1	4	2
SEP	2016	1	0	1	5	3
OCT	2016	2	0	3	3	2
TOTAL EXCEEDANCES		4	0	15	36	14
ALLOWANCES		12	30	30	48	26
NUMBER OF VIOLATIONS		0	0	0	0	0

DRY EXCEEDANCE DAYS (Nov 2016 - Oct 2017)						
Month	Year	BCB-1	BCB-2	BCB-3	BCB-4	BCB-5
NOV	2016	0	0	0	3	0
DEC	2016	0	0	0	0	2
JAN	2017	0	0	0	0	0
FEB	2017	0	0	0	0	0
MAR	2017	0	0	2	4	1
APR	2017	0	0	3	3	2
MAY	2017	0	0	0	3	2
JUN	2017	0	0	5	5	2
JUL	2017	1	0	2	3	2
AUG	2017	0	0	3	5	5
SEP	2017	1	0	3	4	3
OCT	2017	1	0	2	4	1
TOTAL EXCEEDANCES		3	0	20	34	20
ALLOWANCES		12	30	30	48	26
NUMBER OF VIOLATIONS		0	0	0	0	0

Total number of violations (Apr 2013 - Oct 2017)	7	50	46	86	40
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SUMMER - DRY EXCEEDANCE DAYS (Apr 2013 - Oct 2013)						
Month	Year	BCB-6	BCB-7	BCB-8	BCB-9	
APR	2013	0	0	0	0	
MAY	2013	4	4	2	1	
JUN	2013	4	4	0	2	
JUL	2013	4	4	2	2	
AUG	2013	5	5	1	1	
SEP	2013	4	4	0	0	
OCT	2013	5	5	1	2	
TOTAL EXCEEDANCES		26	26	6	8	
ALLOWANCES		0	0	0	0	
NUMBER OF VIOLATIONS		26	26	6	8	

WINTER - DRY EXCEEDANCE DAYS (Nov 2013 - Mar 2014)						
Month	Year	BCB-6	BCB-7	BCB-8	BCB-9	
NOV	2013	3	3	2	0	
DEC	2013	3	3	0	0	
JAN	2014	5	5	0	1	
FEB	2014	3	2	0	0	
MAR	2014	4	4	2	2	
TOTAL EXCEEDANCES		18	17	4	3	
ALLOWANCES		2	2	2	2	
NUMBER OF VIOLATIONS		16	15	2	1	

SUMMER - DRY EXCEEDANCE DAYS (Apr 2014 - Oct 2014)						
Month	Year	BCB-6	BCB-7	BCB-8	BCB-9	
APR	2014	3	3	0	1	
MAY	2014	5	5	1	0	
JUN	2014	4	4	1	0	
JUL	2014	5	5	2	0	
AUG	2014	4	4	1	0	
SEP	2014	4	4	1	1	
OCT	2014	5	5	0	0	
TOTAL EXCEEDANCES		30	30	6	2	
ALLOWANCES		0	0	0	0	
NUMBER OF VIOLATIONS		30	30	6	2	

WINTER - DRY EXCEEDANCE DAYS (Nov 2014 - Mar 2015)						
Month	Year	BCB-6	BCB-7	BCB-8	BCB-9	
NOV	2014	4	4	0	0	
DEC	2014	2	1	1	1	
JAN	2015	2	4	2	0	
FEB	2015	3	3	2	1	
MAR	2015	3	3	1	1	
TOTAL EXCEEDANCES		14	15	6	3	
ALLOWANCES		2	2	2	2	
NUMBER OF VIOLATIONS		12	13	4	1	

SUMMER - DRY EXCEEDANCE DAYS (Apr 2015 - May 13, 2015)						
Month	Year	BCB-6	BCB-7	BCB-8	BCB-9	
APR	2015	4	3	1	0	
13-May	2015	1	1	0	0	
TOTAL EXCEEDANCES		5	4	1	0	
ALLOWANCES		0	0	0	0	
NUMBER OF VIOLATIONS		5	4	1	0	

SUMMER - DRY EXCEEDANCE DAYS (May 14, 2015 - Oct 2015)						
Month	Year	BCB-6	BCB-7	BCB-8	BCB-9	
14-May	2015	2	2	1	0	
JUN	2015	3	4	0	0	
JUL	2015	5	5	2	2	
AUG	2015	4	4	0	1	
SEP	2015	3	3	0	0	
OCT	2015	4	4	1	0	
TOTAL EXCEEDANCES		21	22	4	3	
ALLOWANCES		25	28	6	0	
NUMBER OF VIOLATIONS		0	0	0	3	

WINTER - DRY EXCEEDANCE DAYS (Nov 2015 - Mar 2016)						
Month	Year	BCB-6	BCB-7	BCB-8	BCB-9	
NOV	2015	4	4	3	0	
DEC	2015	4	5	2	2	
JAN	2016	3	1	0	1	
FEB	2016	2	2	1	1	
MAR	2016	3	4	0	0	
TOTAL EXCEEDANCES		16	16	6	4	
ALLOWANCES		19	18	6	2	
NUMBER OF VIOLATIONS		0	0	0	2	

SUMMER - DRY EXCEEDANCE DAYS (Apr 2016 - Oct 2016)						
Month	Year	BCB-6	BCB-7	BCB-8	BCB-9	
APR	2016	4	3	1	0	
MAY	2016	4	4	0	1	
JUN	2016	5	5	0	1	
JUL	2016	4	4	0	2	
AUG	2016	4	4	0	1	
SEP	2016	5	5	0	1	
OCT	2016	3	3	1	0	
TOTAL EXCEEDANCES		29	28	2	6	
ALLOWANCES		33	36	8	0	
NUMBER OF VIOLATIONS		0	0	0	6	

WINTER - DRY EXCEEDANCE DAYS (Nov 2016 - Mar 2017)						
Month	Year	BCB-6	BCB-7	BCB-8	BCB-9	
NOV	2016	2	3	1	0	
DEC	2016	3	3	0	0	
JAN	2017	3	3	0	0	
FEB	2017	0	0	0	0	
MAR	2017	3	5	1	0	
TOTAL EXCEEDANCES		11	14	2	0	
ALLOWANCES		19	18	6	2	
NUMBER OF VIOLATIONS		0	0	0	0	

SUMMER - DRY EXCEEDANCE DAYS (Apr 2017 - Oct 2017)					
Month	Year	BCB-6	BCB-7	BCB-8	BCB-9
APR	2017	3	4	0	0
MAY	2017	4	4	1	0
JUN	2017	5	5	0	1
JUL	2017	4	4	1	0
AUG	2017	5	5	0	0
SEP	2017	4	4	0	0
OCT	2017	4	4	0	0
TOTAL EXCEEDANCES		29	30	2	1
ALLOWANCES		33	36	8	0
NUMBER OF VIOLATIONS		0	0	0	1

MCW Bacterial TMDL Monitoring Stations Summary by Seasons

MCW Total number of violations:	365
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WINTER - DRY EXCEEDANCE DAYS (Jan 2013 - Mar 2013)		
Month	Year	MCW-1
JAN**	2013	0
FEB	2013	3
MAR	2013	1
TOTAL EXCEEDANCES		4
ALLOWANCES		2
NUMBER OF VIOLATIONS		2

**Started collecting data in 12/29/2012

SUMMER - DRY EXCEEDANCE DAYS (Apr 2013 - Oct 2013)		
Month	Year	MCW-1
APR	2013	1
MAY	2013	1
JUN	2013	0
JUL	2013	1
AUG	2013	0
SEP	2013	0
OCT	2013	0
TOTAL EXCEEDANCES		3
ALLOWANCES		0
NUMBER OF VIOLATIONS		3

WINTER - DRY EXCEEDANCE DAYS (Nov 2013 - Mar 2014)		
Month	Year	MCW-1
NOV	2013	1
DEC	2013	1
JAN	2014	1
FEB	2014	0
MAR	2014	1
TOTAL EXCEEDANCES		4
ALLOWANCES		2
NUMBER OF VIOLATIONS		2

SUMMER - DRY EXCEEDANCE DAYS (Apr 2014 - Oct 2014)		
Month	Year	MCW-1
APR	2014	1
MAY	2014	0
JUN	2014	0
JUL	2014	0
AUG	2014	0
SEP	2014	1
OCT	2014	1
TOTAL		3
ALLOWANCES		0
NUMBER OF VIOLATIONS		3

WINTER - DRY EXCEEDANCE DAYS (Nov 2014 - Mar 2015)		
Month	Year	MCW-1
NOV	2014	1
DEC	2014	3
JAN	2015	2
FEB	2015	2
MAR	2015	3
TOTAL		11
ALLOWANCES		2
NUMBER OF VIOLATIONS		9

SUMMER - DRY EXCEEDANCE DAYS (Apr 2015 - Oct 2015)		
Month	Year	MCW-1
APR	2015	1
MAY	2015	0
JUN	2015	0
JUL	2015	0
AUG	2015	0
SEP	2015	0
OCT	2015	1
TOTAL		2
ALLOWANCES		0
NUMBER OF VIOLATIONS		2

WINTER - DRY EXCEEDANCE DAYS (Nov 2015 - Mar 2016)		
Month	Year	MCW-1
NOV	2015	0
DEC	2015	2
JAN	2016	2
FEB	2016	2
MAR	2016	1
TOTAL		7
ALLOWANCES		2
NUMBER OF VIOLATIONS		5

DRY EXCEEDANCE DAYS (Jan 2013 - Oct 2013)											
Month	Year	MCW-2	MCW-3	MCW-4	MCW-5	MCW-6	MCW-7	MCW-10	MCW-11	MCW-13	MCW-16
JAN**	2013	0	0	0	0	0	0	1	0	2	0
FEB	2013	0	0	0	0	0	0	1	0	1	0
MAR	2013	0	0	1	0	0	0	2	0	3	0
APR*	2013	0	0	1	0	0	0	4	0	5	0
MAY	2013	0	0	0	0	0	2	3	0	3	0
JUN	2013	0	1	0	0	0	1	4	0	4	0
JUL	2013	0	0	0	0	0	1	5	1	4	0
AUG	2013	0	0	0	0	0	2	4	2	4	0
SEP	2013	0	0	0	0	0	2	4	1	4	0
OCT	2013	0	0	0	0	0	1	4	1	5	0
TOTAL EXCEEDANCES		0	1	2	0	0	9	32	5	35	0
ALLOWANCES		1	1	1	1	1	1	1	1	1	1
NUMBER OF VIOLATIONS		0	0	1	0	0	8	31	4	34	0

DRY EXCEEDANCE DAYS (Nov 2013 - Oct 2014)											
Month	Year	MCW-2	MCW-3	MCW-4	MCW-5	MCW-6	MCW-7	MCW-10	MCW-11	MCW-13	MCW-16
NOV	2013	0	0	0	0	0	2	2	0	4	0
DEC	2013	0	0	0	0	0	1	2	0	5	0
JAN	2014	0	0	0	0	0	0	0	0	4	0
FEB	2014	0	0	0	0	0	0	1	0	3	0
MAR	2014	1	0	1	0	0	0	3	0	3	0
APR*	2014	0	0	0	1	0	0	5	0	5	0
MAY	2014	0	0	0	0	0	0	4	0	4	0
JUN	2014	0	0	0	0	0	0	3	0	4	0
JUL	2014	0	1	0	0	0	3	5	2	5	0
AUG	2014	0	0	0	0	0	0	4	0	4	0
SEP	2014	0	0	0	0	0	0	5	0	4	0
OCT	2014	0	0	0	0	0	0	4	0	2	0
TOTAL		1	1	1	1	0	6	38	2	47	0
ALLOWANCES		1	1	1	1	1	1	1	1	1	1
NUMBER OF VIOLATIONS		0	0	0	0	0	5	37	1	46	0

DRY EXCEEDANCE DAYS (Nov 2014 - Oct 2015)											
Month	Year	MCW-2	MCW-3	MCW-4	MCW-5	MCW-6	MCW-7	MCW-10	MCW-11	MCW-13	MCW-16
NOV	2014	0	0	0	0	0	0	2	0	2	0
DEC	2014	0	0	1	0	0	2	2	1	2	0
JAN	2015	0	1	0	0	1	1	1	0	2	0
FEB	2015	0	0	0	0	0	0	1	0	2	0
MAR	2015	0	0	0	0	0	0	1	0	4	0
APR*	2015	0	0	0	0	0	0	2	1	1	0
MAY	2015	0	0	0	0	0	0	1	0	2	0
JUN	2015	0	1	0	0	0	1	5	0	5	0
JUL	2015	0	1	0	0	0	0	3	1	4	0
AUG	2015	0	1	0	0	0	0	4	0	4	0
SEP	2015	0	0	0	0	0	1	4	0	4	0
OCT	2015	0	0	0	0	0	1	4	0	4	0
TOTAL		0	4	1	0	1	6	30	3	36	0
ALLOWANCES		1	1	1	1	1	1	1	1	1	1
NUMBER OF VIOLATIONS		0	3	0	0	0	5	29	2	35	0

DRY EXCEEDANCE DAYS (Nov 2015 - Oct 2016)											
*CIMP STATIONS AS OF JULY 2016		CIMP 1	CIMP 3	CIMP 4	CIMP 5	CIMP 6	CIMP 7	CIMP 9	CIMP 10	CIMP 11	CIMP 12
Month	Year	MCW-2	MCW-3	MCW-4	MCW-5	MCW-6	MCW-7	MCW-10	MCW-11	MCW-13	MCW-16
NOV	2015	0	0	0	0	0	1	3	1	4	0
DEC	2015	0	0	0	0	0	0	2	0	4	0
JAN	2016	0	0	0	0	0	0	0	0	2	0
FEB	2016	1	1	1	1	0	1	0	0	3	0
MAR	2016	0	0	0	1	0	0	1	0	3	0
APR	2016	0	0	0	0	0	0	3	0	4	0
MAY	2016	0	0	0	0	0	0	4	0	3	0
JUN	2016	0	0	0	0	0	2	3	0	1	0
JUL*	2016	0	1	0	0	0	1	2	0	1	0
AUG	2016	0	0	0	0	0	1	2	0	0	0
SEP	2016	0	0	0	0	0	0	0	0	1	0
OCT	2016	0	0	0	0	0	0	3	0	1	0
TOTAL		1	2	1	2	0	6	23	1	27	0
ALLOWANCES		1	1	1	1	1	1	1	1	1	1
NUMBER OF VIOLATIONS		0	1	0	1	0	5	22	0	26	0

DRY EXCEEDANCE DAYS (Nov 2016 - Oct 2017)											
*CIMP STATIONS AS OF JULY 2016		CIMP 1	CIMP 3	CIMP 4	CIMP 5	CIMP 6	CIMP 7	CIMP 9	CIMP 10	CIMP 11	CIMP 12
Month	Year	MCW-2	MCW-3	MCW-4	MCW-5	MCW-6	MCW-7	MCW-10	MCW-11	MCW-13	MCW-16
NOV	2016	0	0	0	0	0	0	1	0	1	0
DEC	2016	0	0	0	0	0	0	1	0	2	0
JAN	2017	0	0	1	0	0	1	0	1	0	1
FEB	2017	0	0	0	0	0	0	0	1	0	1
MAR	2017	0	1	0	0	0	0	0	0	3	0
APR*	2017	0	0	0	0	0	0	1	0	2	0
MAY	2017	0	0	0	1	0	1	1	1	2	1
JUN	2017	0	0	0	0	0	0	0	1	1	1
JUL	2017	0	0	0	0	0	0	2	0	2	0
AUG	2017	0	1	0	1	0	0	1	0	1	0
SEP	2017	0	0	0	0	0	0	1	0	1	0
OCT	2017	0	0	0	0	0	0	0	0	0	0
TOTAL		0	2	1	2	0	2	8	4	15	4
ALLOWANCES		1	1	1	1	1	1	1	1	1	1
NUMBER OF VIOLATIONS		0	1	0	1	0	1	7	3	14	3

Total number of violations (Dec 2013 - Oct 2017)	0	5	1	2	0	24	126	10	155	3
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SUMMER - DRY EXCEEDANCE DAYS (Apr 2016 - Oct 2016)		
Month	Year	MCW-1
APR	2016	2
MAY	2016	0
JUN	2016	0
JUL	2016	0
AUG	2016	0
SEP	2016	0
OCT	2016	0
TOTAL		2
ALLOWANCES		0
NUMBER OF VIOLATIONS		2

WINTER - DRY EXCEEDANCE DAYS (Nov 2016 - Mar 2017)		
Month	Year	MCW-1
NOV	2016	0
DEC	2016	0
JAN	2017	2
FEB	2017	2
MAR	2017	0
TOTAL		4
ALLOWANCES		2
NUMBER OF VIOLATIONS		2

SUMMER - DRY EXCEEDANCE DAYS (Apr 2017 - Oct 2017)		
Month	Year	MCW-1
APR	2017	0
MAY	2017	2
JUN	2017	0
JUL	2017	0
AUG	2017	1
SEP	2017	1
OCT	2017	5
TOTAL		9
ALLOWANCES		0
NUMBER OF VIOLATIONS		9

Total number of violations	39
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ENDNOTES

- 1 Santa Monica recently unveiled its Clean Beaches Project to help address runoff-related pollution at this site. Santa Monica Public Works, Clean Beaches Project (2018), <https://www.smgov.net/Departments/PublicWorks/ContentCivEng.aspx?id=54194>. NRDC's blog highlighting the project can be accessed here: <https://www.nrdc.org/experts/ellen-lee/measure-w-dirty-stormwater-clean-beaches>.
- 2 SWRCB, About Us, https://www.waterboards.ca.gov/about_us/.
- 3 SWRCB, mission statement (January 2018), https://www.waterboards.ca.gov/about_us/water_boards_structure/mission.html.
- 4 SWRCB, Water Boards Structure, "What the State Water Resources Control Board Does," https://www.waterboards.ca.gov/northcoast/about_us/water_boards_structure/.
- 5 *Id.*
- 6 SWRCB, Los Angeles Regional Water Board Fact Sheet (June 2012), http://www.waterboards.ca.gov/publications_forms/publications/factsheets/docs/r4_factsheet.pdf.
- 7 United States Census Bureau, Population of Counties by Decennial Census (March 27, 1995), <https://www.census.gov/population/www/censusdata/cencounts/files/ca190090.txt>.
- 8 United States Census Bureau, QuickFacts Los Angeles, (accessed February 5, 2019) <https://www.census.gov/quickfacts/fact/table/losangelescountycalifornia,US/PST045218>.
- 9 *Id.*
- 10 See Jesdale and Morello-Frosch, Metrics for Climate Change, Tree Canopy and Impervious Surface, PowerPoint presentation slide 8, https://dornsife.usc.edu/assets/sites/242/docs/Metrics_Climate_Change_Jesdale_Morello-Frosch.pdf.
- 11 Martin Macias Jr, "Environmentalists Win Ruling on Storm Channel Runoff in Los Angeles," December 27, 2018, <https://www.courthousenews.com/appeals-court-orders-deeper-look-at-socal-stormwater-permits/>.
- 12 Los Angeles Regional Water Quality Control Board [hereinafter LARWQCB], Water Quality Control Plan: Los Angeles Region at 1-3, 1-4 (September 11, 2014) [hereinafter Basin Plan] http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/electronics_documents/FinalRevisedChapter1Text.pdf.
- 13 Cal. Water Code § 13300 *et seq.*
- 14 LARWQCB, Order No. R4-2012-0175 as amended by Order WQ 2015-0075 and Order R4-2012-0175-A01, NPDES Permit No. CAS004001, Attachment F – Fact Sheet at F-7 (September 8, 2016) [hereinafter 2012 LA MS4 Permit] http://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/los_angeles_ms4/2016/R4-2012-0175-Att_F_amended.pdf.
- 15 The Public Records Act is a California law that grants the public access to public records by submitting a request to the relevant agency. The documents we received through these requests are public records; however, they are not readily available to the public without such a request.
- 16 See Jesdale and Morello-Frosch, Metrics for Climate Change, Tree Canopy and Impervious Surface, PowerPoint presentation slide 8, https://dornsife.usc.edu/assets/sites/242/docs/Metrics_Climate_Change_Jesdale_Morello-Frosch.pdf.
- 17 Despite the distinction between dry and wet weather runoff, in common parlance, "stormwater" and "urban runoff" are often used interchangeably.
- 18 U.S. General Accounting Office, Water Quality: Urban Runoff Programs, Report No. GAO-01- 679 at 37 (June 2001), <http://www.gao.gov/new.items/d01679.pdf>.
- 19 Haan-Fawn Chau, *Green Infrastructure for Los Angeles: Addressing Urban Runoff and Water Supply Through Low Impact Development* at 50 (April 17, 2009), http://www.waterboards.ca.gov/water_issues/programs/climate/docs/resources/la_green_infrastructure.pdf, citing City of Los Angeles Department of Public Works, Bureau of Sanitation, "Water Quality Compliance Master Plan for Urban Runoff," Draft, (December 4, 2007).
- 20 Haile, Alamillo, Barret, Cressey, Dermond, Ervin, Glasse, Harawa, Harmon, Harper, McGee, Millikan, Nides, and Witte, *An Epidemiological Study of Possible Adverse Health Effects of Swimming in Santa Monica Bay*, Santa Monica Bay Restoration Project (October 1996), <https://ecomalibu.org/studies/1996%20Epi%20Study/Epidemiological%20study%20part%201.pdf>; See also Nobel, Weisberg, Leecaster, McGee, Dorsey, Vainik, and Orozco-Borbon; *Storm Effects on Regional Beach Water Quality Along the Southern California Shoreline*, Journal of Water and Health 23, 23 (2003), http://www.sld.cu/galerias/pdf/sitios/rehabilitacion-bal/storm_effects_on_regional_beach_water_qauality.pdf.
- 21 Haile, Witte, Gold, Cressey, McGee, Millikan, Glasser, Harawa, Ervin, Harmon, Harper, Dermand, Alamillo, Barrett, Nides, and Wang, *The Health Effects of Swimming in Ocean Water Contaminated by Storm Drain Runoff*, Epidemiology 355, 358 (July 4, 1999) [hereinafter Health Effects of Swimming in Contaminated Runoff], <https://www.ncbi.nlm.nih.gov/pubmed/10401868>.
- 22 Given, Pendleton, and Boehm; *Regional Public Health Cost Estimates of Contaminated Coastal Waters: A Case Study of Gastroenteritis at Southern California Beaches*, Environmental Science & Technology at 4851, 4856 (2006), <http://pubs.acs.org/doi/pdf/10.1021/es060679s>, citing Rabinovici, Bernknopf, Wein, Coursey, and Whitman; *Economic and health risk tradeoffs of swim closures at a Lake Michigan Beach*. Environ. Sci. Technol. 2004, 38, 2742-2750. The public health cost figure is calculated using the Given et al.'s estimate of 993,000 GI cases in LA County annually, multiplied by Rabinovici et al.'s cost of \$280 per illness.
- 23 LARWQCB, 2012 LA Permit Fact Sheet at F-7.
- 24 33 U.S.C. § 1342.
- 25 *Id.* § 1362(14).
- 26 See 33 U.S.C. § 1342(p).
- 27 33 U.S.C. § 1313(c)(2)(A).
- 28 See LARWQCB, Basin Plan, 2-2, https://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/electronics_documents/Chapter2Text.pdf.
- 29 33 U.S.C. § 1313(d).
- 30 *Id.* at (d)(1)(C).
- 31 40 C.F.R. § 122.44(d)(1)(vii)(B).
- 32 LARWQCB, 2012 LA MS4 Permit at 1.
- 33 Cal. Water Code § 13001.
- 34 *Id.* § 13300 *et seq.*

35 See SWRCB, Water Quality Enforcement Policy at 1, (April 4, 2017) https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf [hereinafter Enforcement Policy].

36 U.S. EPA, NPDES Memorandum of Agreement Between the U.S. EPA and the California State Water Resources Control Board (1989) at 1 [hereinafter MOA], https://www.epa.gov/sites/production/files/2013-08/documents/ca-moa-npdes_0.pdf.

37 *Id.* at 39.

38 *Id.* at 6.

39 These circumstances include when the State Board is responding to petitions that allege ineffective enforcement action by a Regional Water Board; the enforcement of statewide or multi-regional general permits; circumstances where the matter involves multi-regional permittees; and/or circumstances where the violations cause harm in more than one region; for example. SWRCB, Enforcement Policy at 8.

40 See *id.* at 1, 5, and 7.

41 *Id.* at 1.

42 *Id.* at Appendix A, 1.

43 *Id.*

44 *Id.* at 5.

45 SWRCB, Enforcement Policy, Appendix A, 1.

46 *Id.*

47 *Id.* *emphasis added.*

48 *Id.* at Appendix A, 2.

49 Cal. Water Code § 13399.1(c).

50 *Id.* at § 13399.1.

51 *Id.* at §§ 13267(b), 13383.

52 SWRCB, Enforcement Policy, Appendix A, 4.

53 *Id.* See also Cal. Water Code § 13300.

54 *Id.* Appendix A, 4.

55 *Id.* Appendix A, 5.

56 *Id.* at 5-6.

57 Cal. Water Code § 13385(h)(1).

58 Pursuant to Water Code § 13385(h)(2), a serious violation is any waste discharge that exceeds the effluent limitation for a Group I pollutant, as defined by Appendix A to 40 C.F.R. § 123.45, by forty percent or more, or a Group II pollutant, as defined by Appendix A to 40 C.F.R. § 123.45, by twenty percent or more. Group I pollutants include constituents like solids, oil and grease, metals, and nutrients. Group II pollutants include organics and metals not listed under Group I.

59 Cal. Water Code § 13385.1(a)(1).

60 *Chronic* means occurring four or more times during any 180-day period (although the first three violations do not count towards calculation of the penalties). *Id.* § 13385(i)(1).

61 *Id.* § 13385(i)(1)(A)-(B). Other instances include (c) Files an incomplete report of waste discharge pursuant to California Water Code section 13260; or, (d) Violates a whole effluent toxicity effluent limitation where the WDRs do not contain pollutant-specific effluent limitations for any toxic pollutants.

62 2012 LA MS4 Permit at 1, § II H.

63 See, *id.* Attachment M.

64 See *id.* at VI A. 13 (f), (g). The Board also recognizes the stormwater program is subject to MMPs in the following documents: LA MS4 Permit at §§ IV A. 2 and LARWQCB TSO No. R4-2015-0108 ¶ 48 (May 14, 2015).

65 There are various MS4 permit terms that can be violated (and therefore for which enforcement can be sought), for example, by violating water quality standards or water quality objectives, or for failure to submit a monitoring report. These standards and objectives are contained in various documents such as the California Ocean Plan, the California Toxics Rule, and the Basin Plan, to name a few.

66 SWRCB, California Integrated Water Quality System Project [hereinafter CIWQS Database] (November 5, 2018), https://www.waterboards.ca.gov/water_issues/programs/ciwqs/.

67 This number does not include sixty-six 13383 Orders reminding permittees to submit a “method to comply with statewide trash provisions” (issued on August 18, 2017), and 84 Notifications of Requirements to Implement an Industrial/Commercial Facilities Program, warning permittees that the Board would be performing audits of select permittees (issued from February 28 to May 25, 2017). These were excluded because these were merely reminders to comply with upcoming deadlines. This total also does not include follow-up, 2nd or 3rd Notices of Violation, of which 23 were issued.

68 LARWQCB TSO No. R4-2014-0023 (February 6, 2014), LARWQCB TSO No. R4-2014-0142 (July 10, 2014), and LARWQCB TSO No. R4-2015-0108 (May 14, 2015).

69 When the Regional Board issued one Enforcement Action against several permittees, the action was counted as a single action. This is consistent with the way actions are categorized in the CIWQS database. The totals reflect the documents we received in response to our PRA Requests unless otherwise noted.

70 These actions were found via the CIWQS database.

71 These include what the Board calls “Requests for Information,” “Request for Investigation,” “Requirement to Submit Information,” “Requirement to Provide Information,” or “Investigative Order.”

72 When these Requests were sent simultaneously with NOV, we did not count the NOV as a separate action.

73 An additional three were partially rescinded. One progressed to an ACL which was later rescinded- this rescission is accounted for in the ACL tally and not here.

74 The first Los Angeles MS4 permit was issued on June 8, 1990 and the most recent MS4 permit took effect on December 29, 2012, for a total of 22.58 years.

75 Because the 2012 permit took effect at the end of the year, on December 29th, we examined enforcement actions starting in 2013.

76 These four actions are classified as informal actions because the Requests did not cite § 13267 or § 13383 (for “Request for Technical Reports & Investigation”).

77 All these TSOs granted permittees *more time* to comply with the permit after more time was requested from the Board. These are categorized as “enforcement actions” in name only, as they relax enforcement timelines.

78 This range includes January 2013–March 2018, or 5.25 years.

79 Haile et al., (1999) at 359.

80 A “safe harbor” is present when “compliance with certain provisions [] forgive[s] noncompliance with the discharge prohibitions.” *NRDC v. County of Los Angeles et al.*, 673 F.3d 880, 897 (9th Cir. 2011), rev’d on other grounds, 568 U.S. 78 (2013).

81 The 2012 LA MS4 Permit § VI. C. 3. c. requires compliance with receiving water limitations with final compliance deadlines that occur prior to approval of a WMP or EWMP. WMP and EWMP approval deadlines were April 2015 and April 2016, respectively.

82 Public Records Act Requests were sent in January and April of 2018. Responsive data came in different formats including Excel spreadsheets and PDFs, making extracting and analyzing the data difficult. Relatedly, our analysis revealed several instances of permittees misreporting the number of allowable exceedance days; this occurred as both under and over reported exceedance days.

83 See *NRDC v. County of Los Angeles et al.*, 673 F.3d 880 (9th Cir. 2011), rev’d on other grounds, 568 U.S. 78 (2013), regarding widespread unaddressed violations of the 2001 MS4 permit. In 2008, NRDC filed a case against the County of Los Angeles for exceedances of water quality standards in the 2001 MS4 permit; undisputed monitoring data showed that there were hundreds of separate exceedances in the Los Angeles and San Gabriel Rivers. Just as we found in our current analysis, these widespread violations of the 2001 permit went unaddressed by the Regional Board. In 2010, the 9th Circuit Court of Appeals ruled that the County and Flood Control District were liable for these exceedances in the Los Angeles and San Gabriel Rivers.

84 Waste load allocations are expressed as the allowable number of days that the receiving waters may exceed the TMDL’s water quality objectives for protection of those waters’ beneficial uses. LARWQCB, 2012 LA MS4 Permit § II K (1).

85 Wet weather days for the stations operated by the Los Angeles County Sanitation District were obtained using the station-specific rainfall data provided in the County’s shoreline monitoring data. Wet weather days for all other stations were obtained from the City’s monthly monitoring reports (which use a single rainfall gauge located at the University of Southern California) or from Los Angeles International Airport rain gauge data.

86 Because the Los Angeles County Permit became effective on December 29, 2012, and only requires compliance as of the effective date of the permit, NRDC calculated Santa Monica Bay Beaches and Malibu Creek bacteria TMDLs violations starting December 29, 2012 – even though these two TMDLs set compliance deadlines for allowable dry weather exceedance days *prior to* the effective date of the permit. The Ballona Creek bacteria TMDL, on the other hand, sets a compliance deadline of April 27, 2013 for dry weather. For this reason, NRDC calculated violations for the Ballona Creek bacteria TMDL starting April 27, 2013.

87 Santa Monica recently unveiled its Clean Beaches Project to help address runoff-related pollution at this site. Santa Monica Public Works, Clean Beaches Project (2018), <https://www.smgov.net/Departments/PublicWorks/ContentCivEng.aspx?id=54194>. NRDC’s blog highlighting the project can be accessed here: <https://www.nrdc.org/experts/ellen-lee/measure-w-dirty-stormwater-clean-beaches>.

88 See City and County of Los Angeles, Santa Monica Bay Beaches Bacterial TMDLs Coordinated Shoreline Monitoring Plan at 1-1 (revised April 7, 2004), http://www.waterboards.ca.gov/losangeles/board_decisions/basin_plan_amendments/technical_documents/2002-022/04_0407/SMBBB%20TMDLs%20CSMP.pdf.

89 40 C.F.R. § 130.7(c).

90 LARWQCB, Basin Plan at 7-25, https://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/electronics_documents/CH7_R11-013_RBBPA.pdf.

91 See Santa Monica Bay Jurisdictional Group 2 and 3 Enhanced Watershed Management Plan; Revised for 2018 Time Extension, xvii (November 2, 2018), https://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/watershed_management/santa_monica/EWMPsMBJ2&3revisedfortimeextension110218.pdf; citing Resolution No. R12-007 (June 7, 2012). Interestingly, permittees applied these larger allowable exceedance numbers retroactively in their October 2014 report. Exceedances that were violations when they originally occurred and were reported to the Board were included in our total number of exceedances.

92 LARWQCB, Basin Plan at 7-25.

93 See LARWQCB, Time Schedule Order No. R4-2015-0108 at 3 (May 14, 2015), https://www.waterboards.ca.gov/rwqcb4/water_issues/programs/stormwater/municipal/la_ms4/R4-2015-XXXX/TSOR4-2015-0108.pdf.

94 See *id.*

95 LARWQCB, Basin Plan at 7-239.

96 LARWQCB, Basin Plan Amendment 1 (January 3, 2013) https://www.waterboards.ca.gov/losangeles/water_issues/programs/tmdl/docs/R12-008_RB_BPA.pdf.

97 Letter from Jane Diamond, Director, Water Division, USEPA Region IX, to Samuel Unger, Executive Officer, LARWQCB (July 2, 2014) https://www.waterboards.ca.gov/losangeles/water_issues/programs/tmdl/docs/R12-009_EPA_APV.pdf.

98 LARWQCB, Basin Plan Amendment (January 3, 2013) https://www.waterboards.ca.gov/losangeles/water_issues/programs/tmdl/docs/R12-008_RB_BPA.pdf.

99 See LARWQCB, Time Schedule Order No. R4-2015-0108, 14-15 (May 14, 2015), https://www.waterboards.ca.gov/rwqcb4/water_issues/programs/stormwater/municipal/la_ms4/R4-2015-XXXX/TSOR4-2015-0108.pdf.

100 *Id.*

101 LARWQCB, Basin Plan at 7-243; and LARWQCB, Time Schedule Order No. R4-2015-0108, 7, 15, and fn. 5 (May 14, 2015), https://www.waterboards.ca.gov/rwqcb4/water_issues/programs/stormwater/municipal/la_ms4/R4-2015-XXXX/TSOR4-2015-0108.pdf. Until May 14, 2015, ten percent of the samples for BCB-1 could exceed the limit during any thirty-day period before a violation is triggered; because sampling is conducted weekly at this site, this translated to zero allowable exceedances at BCB-1.

102 Until November 2014, the permittee was misreporting BCB-1 through BCB5 in summer dry, winter dry periods. The permittee also mis-quantified the ratio exceedance for BCB-1, resulting in the reporting of additional allowable exceedance days during this period, and thereby reducing the number of reported violations.

103 We split this reporting season in May 2015 due to an increase in the number of allowable exceedances for BCB-1 through BCB-5. The May 14, 2015 TSO increased the number of allowable exceedances for several Ballona monitoring sites. The Board granted this increase because permittees anticipated that additional time was necessary to comply with the TMDL.

- 104 *Id.*
- 105 See County of Los Angeles Department of Public Works, Malibu Creek, and Lagoon Bacteria TMDL Compliance Monitoring Plan at 3 (revised Feb. 25, 2008), <http://www.cityofcalabasas.com/pdf/documents/environmental-services/malibu-creek-watershed-bacteria/appendix-C.pdf>.
- 106 LARWQCB, Attachment A to Resolution No. R12-009 at 1 (June 7, 2012) [hereinafter Malibu Creek TMDL], https://www.waterboards.ca.gov/rwqcb4/water_issues/programs/tmdl/docs/R12-009_RB_BPA.pdf.
- 107 *Id.*
- 108 Letter from Jane Diamond, Director, Water Division, USEPA Region IX, to Samuel Unger, Executive Officer, LARWQCB (July 2, 2014) https://www.waterboards.ca.gov/losangeles/water_issues/programs/tmdl/docs/R12-009_EPA_APV.pdf.
- 109 LARWQCB, Malibu Creek TMDL at 2.
- 110 U.S. EPA, MOA at 39.
- 111 NRDC found only four instances where the Regional Board issued ACL complaints which resulted in the payment of fines by a discharger.
- 112 SWRCB, Enforcement Policy at 1.
- 113 *Id.* Attachment A, 1. *Emphasis added.*
- 114 SWRQB, Supplemental Environmental Projects (SEPs) Overview, https://www.waterboards.ca.gov/water_issues/programs/enforcement/sep.html.
- 115 See Safe, Clear Water LA, Program Details (accessed February 11, 2019) <https://safecleanwaterla.org/scw-program-details/>.
- 116 SWRCB, mission statement (January 2018), https://www.waterboards.ca.gov/about_us/water_boards_structure/mission.html.
- 117 33 U.S.C § 1342.
- 118 *Id.* § 1362(14); 40 C.F.R. § 122.2.
- 119 In 1973, EPA issued its first stormwater regulations which exempted stormwater runoff uncontaminated by any industrial or commercial activity from the NPDES permitting requirements. The U.S. Court of Appeals for the District of Columbia affirmed a lower-court decision to overturn these regulations, concluding that EPA did not have the authority to exclude any classes of point sources from the NPDES program. *NRDC v. Costle*, 568 F.2d 1369 (D.C. Cir. 1977). Following the 1977 decision, EPA issued a series of proposed and final stormwater regulations.
- 120 33 U.S.C § 1342(p).
- 121 *Id.*
- 122 U.S. EPA, *NPDES: Stormwater Discharges from Municipal Sources*, <https://www.epa.gov/npdes/stormwater-discharges-municipal-sources> (last updated November 4, 2018).
- 123 33 U.S.C. § 1342(b)(1)(B).
- 124 *Id.* § 1342(b).
- 125 U.S. EPA, NPDES State Program Information, <https://www.epa.gov/npdes/npdes-state-program-information> under “Authority” tab (last updated December 11, 2018).
- 126 U.S. EPA, NPDES Memorandum of Agreement Between the U.S. Environmental Protection Agency and the California State Water Resources Control Board (1989), https://www.epa.gov/sites/production/files/2013-08/documents/ca-moa-npdes_0.pdf.
- 127 Cal. Water Code §§ 13001, 13140, 13370, and 13377.
- 128 33 U.S.C. § 1313(c)(2)(A).
- 129 LARWQCB, Basin Plan 2-2 (November 10, 2011), https://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/electronics_documents/Chapter2Text.pdf.
- 130 33 U.S.C. § 1313(d).
- 131 40 C.F.R § 130.2(i).
- 132 *Id.* § 130.2(h).
- 133 *Id.* § 122.44(d)(1)(vii)(B).
- 134 See U.S. EPA, *Impaired Waters and TMDLs: Overview* (last updated September 13, 2018), <https://www.epa.gov/tmdl/program-overview-total-maximum-daily-loads-tmdl>.
- 135 See LARWQCB, Order No. R4-2012-0175 as amended by Order WQ 2015-0075 and Order R4-2012-0175-A01, NPDES Permit No. CAS004001 at 10 (September 8, 2016) [hereinafter 2012 LA Permit], http://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/los_angeles_ms4/2016/OrderR4-2012-0175_corrected_120216.pdf.
- 136 LARWQCB, Order No. 01-182, NPDES Permit No. CAS004001 (December 13, 2001), http://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/ms4_permits/los_angeles/01-182_LosAngelesMS4Permit.pdf and *Id.* at 1.
- 137 While this extension was granted pursuant to federal regulations, a six-year extension is quite lengthy, as it is one year longer than the entire five year term of an MS4 permit.
- 138 On September 14, 2006, the 2001 LA Permit was amended by Order No. R4-2006-0074 to incorporate requirements to implement the Santa Monica Bay Beaches summer dry weather bacteria TMDL. On August 9, 2007, the 2001 Permit was amended by Order No. R4-2007-0042 to incorporate provisions consistent with the Marina del Rey Harbor Mothers’ Beach and Back Basins bacteria TMDL. Lastly, the 2001 Permit was amended on December 10, 2009 to implement requirements of the Los Angeles River Watershed Trash TMDL. LA 2012 MS4 Permit at 11.
- 139 The Los Angeles County Superior Court found that, “the permit proceeding at which Order No. R4-2006-0074 was adopted was procedurally deficient. The Court did not address the substantive merits of the amendments...and thus made no determination about the substantive validity of Order No. R4-2006-0074.” In compliance with the writ of mandate, the Regional Board voided and set aside the amendments adopted through Order No. R4-2006-0074. LA 2012 MS4 Permit at 11.

140 *See, for example*, LA 2012 MS4 Permit at 12.

141 LARWQCB, Order No. R4-2012-0175-A01 amending Order No. R4-2012-0175 as amended by Order WQ 2015-0075, NPDES Permit No. CAS004001 at 2 (September 8, 2016), http://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/los_angeles_ms4/2016/R4-2012-0175-A01.pdf.

142 The Regional Board regulated discharges from the City of Long Beach's MS4 from 1990 through 1999 under the Los Angeles County MS4 Permit that was issued in 1990 and 1996. *See* LARWQCB, Order No. R4-2014-0024 as amended by Order R4-2014-0024-A01, NPDES Permit No. CAS004003 at 10 (September 8, 2016) [hereinafter 2014 Long Beach Permit], https://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/ms4_permits/long_beach/2016/8052_R4-2014-0024_WDR_PKG_amd.pdf.

143 *See* LARWQCB, Order No. 99-060, NPDES Permit No. CAS004003 (June 30, 1999), http://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/ms4_permits/long_beach/99-060_LongBeachMS4Permit.pdf.

144 *See* 2014 Long Beach Permit at 10.

145 *Id.*

146 *See* LARWQCB, Order No. R4-2010-0108, NPDES Permit No. CAS004002, at 1, (July 8, 2010) http://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/ventura_ms4/AdoptedVenturaCountyms4/Order.pdf.

147 *Id.* at 1.

148 *Id.* at 1,2.

149 Cal. Water Code § 13001.

150 *Id.* § 13300 et seq.

151 *See* SWRCB, Water Quality Enforcement Policy at 1 (October 2017) [hereinafter Enforcement Policy], https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf.

152 U.S. EPA, NPDES Memorandum of Agreement Between the U.S. Environmental Protection Agency and the California State Water Resources Control Board (1989), https://www.epa.gov/sites/production/files/2013-08/documents/ca-moa-npdes_0.pdf.

153 *Id.* at 39.

154 *Id.* at 6.

155 SWRCB, Enforcement Policy at 2. Informal enforcement actions (oral, written, and electronic communications) cannot be petitioned.

156 These circumstances include when the State Board is responding to petitions that allege ineffective enforcement action by a Regional Water Board; the enforcement of statewide or multi-regional general permits; and circumstances where the matter involves multi-regional permittees; circumstances where the violations cause harm in more than one region; for example. *Id.* at 8.

157 *See, for example, id.* at 1, 5, and 7.

158 SWRCB, Deconstructing Enforcement: A Primer on Water Quality Enforcement at 1 (August 2010), http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/deconstructing_enforce2010aug.pdf.

159 *Id.* at 2.

160 SWRCB, Enforcement Policy at 1.

161 *Id.*

162 *Id.* at 3.

163 *Id.*

164 The Water Boards have discretion to take enforcement actions pursuant to various provisions of the Porter-Cologne Act; nonetheless, “[i]t is the policy of the State Water Board that every violation results in the appropriate enforcement response consistent with the priority of the violation established in accordance with [the Enforcement] Policy.” *Id.* at 5. Enforcement prioritization involves a two-step process: first, violations are ranked as either Class A or Class B, as defined in the Enforcement Policy. Second, individual cases are prioritized for formal discretionary enforcement based on a set of non-exclusive factors. *Id.* at 5-7.

165 SWRCB, Enforcement Policy, Appendix A at 1.

166 *Id.*

167 *Id. emphasis added.*

168 *Id.*, Appendix A at 2.

169 *Id.* The enforcement database, known as the California Integrated Water Quality System (CIWQS), is a web database that allows the Water Boards to track the regulated community's compliance with water quality laws, and to document and manage violations and enforcement activities. The database is available here: https://www.waterboards.ca.gov/water_issues/programs/ciwqs/.

170 SWRCB, Enforcement Policy at 2.

171 *Id.*

172 SWRCB, Enforcement Policy, Appendix A at 2.

173 *Id.*

174 *Id.*

175 *Id.*

176 Cal. Water Code § 13399 (e) and (f).

177 *Id.* § 13399.1 (c).

178 *Id.* § 13399.2 (k).

179 *Id.* § 13267 (b)(1).

180 *Id.* §§13268, 13385.

181 Cal. Water Code § 13304; SWRCB, Enforcement Policy, Appendix A at 4.

182 *Id.*

183 “Nuisance” is defined to mean anything that is “[i]njurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property,” “[a]ffects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal,” and “[o]ccurs during, or as a result of, the treatment or disposal of wastes.” Cal. Water Code § 13050 (m).

184 SWRCB, Enforcement Policy, Appendix A at 4.

185 *Id.*

186 *Id.*

187 *Id.*

188 *Id.*

189 *Id.* at 5.

190 SWRCB, Enforcement Policy, Appendix A at 5.

191 *See, for example*, Cal. Water Code §§ 13261, 13265, 13268, 13308, and 13385.

192 SWRCB, Enforcement Policy at 9-10.

193 *Id.*

194 Cal. Water Code § 13323 (b), (c).

195 *Id.* § 13323 (b).

196 SWRCB, Enforcement Policy at 9-23.

197 Cal. Water Code § 13385 (h)(1).

198 Pursuant to Water Code § 13385 (h)(2), a serious violation is any waste discharge that exceeds the effluent limitation for a Group I pollutant, as defined by Appendix A to 40 C.F.R. § 123.45, by 40 percent or more, or a Group II pollutant, as defined by Appendix A to 40 C.F.R. § 123.45, by 20 percent or more. Pursuant to Water Code § 13385.1, a serious violation also means a failure to file a discharge monitoring report pursuant to § 13383 for a complete period of 30 days.

Group I pollutants include constituents like solids, oil and grease, metals, and nutrients. Group II pollutants include organics and metals not listed under Group I.

199 Cal. Water Code § 13385.1 (a)(1).

200 *Id.* § 13385(i)(1)(A)-(D).

201 *Id.* § 13385(i)(1).

202 2012 LA MS4 Permit at 1, §II H.

203 *See id.* at §§ IV A. 2, VI A. 13 (f), (g); and LARWQCB, TSO No. R4-2015-0108 (May 14, 2015) ¶ 48.

204 LARWQCB, Complaint No. 98-025, Administrative Civil Liability for Violations of the California Water Code and Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges Within the County of Los Angeles (Order No. 96-054 NPDES No. CAS614001) (April 2, 1998).

205 *Id.* This Notice of Noncompliance is not accounted for in the Enforcement Action tables or total. This is because it is not listed in the CIWQS database, was not included in the Regional Board’s response to our PRA Request, and because it was unclear how to categorize a “Notice of Noncompliance” among the enforcement actions typically taken.

206 *Id.*

207 *Id.*

208 Email from Ivar Ridgeway, Senior Environmental Scientist, Regional Board, to Corinne Bell, July 9, 2018, attaching a spreadsheet of ACL penalties.

209 LARWQCB, Complaint No. R4-2003-0071, Administrative Civil Liability for Violations of the California Water Code and Board Order No. 01-182 (NPDES Permit No. CAS004001) (September 24, 2003) [hereinafter City of LA ACL].

210 This Notice of Violation is accounted for in the Enforcement Action tables; however, it could not be located in the CIWQS database and was not included in the Regional Board’s response to our PRA Request.

211 *Id.* A Supplemental Environmental Project is an environmentally beneficial project that an alleged violator can agree to undertake as part of the settlement of an enforcement action in exchange for penalty reduction. Cal. EPA, Supplemental Environmental Projects (visited March 6, 2018), <https://calepa.ca.gov/supplemental-environmental-projects/>.

212 *Id.*

213 Email from Ivar Ridgeway, Senior Environmental Scientist, Regional Board, to Corinne Bell, July 9, 2018, attaching a spreadsheet of ACL penalties.

214 LARWQCB, Complaint No. R4-2010-0028, Administrative Civil Liability for Violations of California Water Code § 13376 and Order No. 01-182, amended by Orders Nos. R4-2006-0074, R4-2007-0042, and R4-2009-0130 (NPDES Permit No. CAS004001) (February 18, 2010).

215 Email from Ivar Ridgeway, Senior Environmental Scientist, Regional Board to Corinne Bell, July 9, 2018, attaching a spreadsheet of ACL penalties.

216 LARWQCB, Complaint No. R4-2009-0001, Administrative Civil Liability Pursuant to California Water Code § 13385 (NPDES Permit No. CAS004001) (January 30, 2009), https://www.waterboards.ca.gov/losangeles/water_issues/programs/enforcement/acl_docs/R4-2009-0001.pdf

217 *Id.* at 2, 3. These two follow-up NOV’s are not accounted for in the Enforcement Actions total.

218 *Id.* at 6, 9.

219 LARWQCB, Settlement Agreement and Mutual Release, Administrative Civil Liability Complaint No. R4-2009-0001 (December 9, 2009).

- 220 *Id.*
- 221 Email from Ivar Ridgeway, Senior Environmental Scientist, Regional Board, to Corinne Bell, July 9, 2018, attaching a spreadsheet of ACL penalties.
- 222 Letter from LARWQCB to Anthony Ybarra, City Manager, South El Monte (July 29, 2016). Like Torrance, South El Monte received at least three Notices of Violation.
- 223 Letter from LARWQCB to Jennifer Vasquez, Interim City Manager, South El Monte (April 11, 2017).
- 224 Email from Ivar Ridgeway, Senior Environmental Scientist, Regional Board, to Corinne Bell, July 9, 2018, attaching a spreadsheet of ACL penalties.
- 225 City of LA ACL.
- 226 *Id.*
- 227 The September 28, 2006 Request for Information from Manhattan Beach was rescinded when the Board became aware of a reporting error and found that no exceedance actually occurred. LARWQCB, Rescission of Request for Information (October 13, 2006).
- 228 *See, for example*, LARWQCB Request for Information to Neal Shapiro, Santa Monica Environment and Public Works (July 17, 2006). The County often responded to the Regional Board by demanding that the agency supply a cost benefit analysis of providing the information requested. *See, for example*, Letter from Mark Pestrella, Los Angeles County Department of Public Works, to Jonathan Bishop, LARWQCB Executive Officer (August 3, 2006).
- 229 The Notices of Violation that were sent to the City of Los Angeles, Los Angeles County, and the Los Angeles County Flood Control District were issued for violations of *both* the Santa Monica Bay Beaches bacteria TMDL and the Marina del Rey Harbor Mothers' Beach and Back Basins bacteria TMDL.
- 230 *See, for example*, LARWQCB Notice of Violation to the County of Los Angeles (March 4, 2008) attaching an Order pursuant to California Water Code § 13383.
- 231 For example, the Regional Board concluded that the permittees' responses to the Investigative Order failed to (1) provide adequate information for the Board to determine that the exceedance did not result from the MS4, (2) provide adequate information for the Board to determine that the MS4 does not discharge dry weather flow into receiving waters of the Los Angeles region, (3) provide adequate information for the Board to determine that the summer dry weather flow is treated by the responsible permittee, and (4) demonstrate that the permittee has adequately documented a source investigation of the subwatershed, pursuant to protocols established under California Water Code § 13178, that bacterial sources originating within the jurisdiction of the permittee have not caused or contributed to the exceedance of the receiving water limit. *See for example*, LARWQCB Second Notice of Violation to the County of Los Angeles (October 15, 2009).
- 232 *See, for example, id.*
- 233 *See, for example, id.* at 6.
- 234 *See, for example, id.* at 8.
- 235 *See* LARWQCB, Order No. 01-182 (October 19, 2010) https://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/los_angeles_ms4/order01-182/OrderNo.01-182.pdf.
- 236 LARWQCB, Investigative Order No. R4-2014-0164-A01 (August 11, 2014).
- 237 LARWQCB, Investigative Order No. R4-2014-0164-A01 (September 22, 2014).
- 238 *See* CIWQS Database at: <https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/CiwqsReportServlet?reportID=2183898&inCommand=drilldown&reportName=GeoEnfDetail&program=MNSTW1®ion=4&enfType=NTC>.
- 239 LARWQCB letters to Rafael Fajardo, City Engineer, Rosemead; Chris Marcarello, Deputy City Manager, San Fernando; and Daren Grilley, Public Works Director, San Gabriel (June 10, 2016).
- 240 LARWQCB Letter to Daniel Rydberg, Public Works Director, Oxnard (June 10, 2016).
- 241 *See, for example*, LARWQCB, Notice of Violation for Failure to Submit Los Angeles Trash TMDL Compliance Report Due October 31, 2011 (February 8, 2012).
- 242 *See, for example, id.* at 3.
- 243 *See, for example, id.*
- 244 *See, for example*, LARWQCB, Rescission of Notice of Violation to City of Duarte (February 29, 2012).
- 245 Email from Ivar Ridgeway, Senior Environmental Scientist, Regional Board, to Corinne Bell (June 25, 2017).
- 246 *Id.*
- 247 *See, for example*, LARWQCB, Notice of Violation for Failure to Submit Los Angeles Trash TMDL Compliance Report Due October 31, 2011 (February 8, 2012).