

<b>REQUEST FOR COUNCIL ACTION</b> CITY OF SAN DIEGO				CERTIFICATE NUMBER (FOR COMPTROLLER'S USE ONLY)	
TO: CITY COUNCIL		FROM (ORIGINATING DEPARTMENT): Public Utilities		DATE: 9/25/2014	
SUBJECT: Point Loma Wastewater Treatment Plant - National Pollutant Discharge Elimination System (NPDES) Permit Application					
PRIMARY CONTACT (NAME, PHONE): Ann Sasaki, 858-292-6402 MS 901A			SECONDARY CONTACT (NAME, PHONE): Brent Eidson, 858-654-4173 MS 901A		
COMPLETE FOR ACCOUNTING PURPOSES					
FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00
FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00
COST SUMMARY (IF APPLICABLE): Not applicable at this time. Any future expenditure of funds related to the Point Loma Wastewater Treatment Plant - National Pollutant Discharge Elimination System (NPDES) Permit Application will require future Council approval.					
ROUTING AND APPROVALS					
CONTRIBUTORS/REVIEWERS:		APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	
Liaison Office		ORIG DEPT.	Sasaki, Ann	09/25/2014	
Environmental Analysis		CFO			
		DEPUTY CHIEF			
		COO			
		CITY ATTORNEY	Zeleny, Thomas		
		COUNCIL PRESIDENTS OFFICE			
PREPARATION OF:	<input checked="" type="checkbox"/> RESOLUTIONS	<input type="checkbox"/> ORDINANCE(S)	<input type="checkbox"/> AGREEMENT(S)	<input type="checkbox"/> DEED(S)	
1. Approve the Mayor's proposal to submit the renewal application for a modified National Pollutant Discharge Elimination System (NPDES) Permit for the Point Loma Wastewater Treatment Plant; and					
2. Authorize the Mayor or his designee to enter into a Cooperative Agreement between the City of San Diego and San Diego Coastkeeper, Surfrider Foundation San Diego Chapter, Coastal Environmental Rights Foundation, and					

the San Diego Audubon Society in support of the Point Loma National Pollutant Discharge Elimination System (NPDES) Permit and Pure Water San Diego.	
STAFF RECOMMENDATIONS: Staff recommends approval of the requested actions.	
SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)	
COUNCIL DISTRICT(S):	Citywide
COMMUNITY AREA(S):	Citywide
ENVIRONMENTAL IMPACT:	This activity is not a “project” and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).
CITY CLERK INSTRUCTIONS:	Please forward two (2) copies of the Resolution to Public Utilities Department, MS 901A, Attention: Jennifer Wolverton

**COUNCIL ACTION**  
**EXECUTIVE SUMMARY SHEET**  
**CITY OF SAN DIEGO**

DATE: 9/25/2014

ORIGINATING DEPARTMENT: Public Utilities

SUBJECT: Point Loma Wastewater Treatment Plant - National Pollutant Discharge Elimination System (NPDES) Permit Application

COUNCIL DISTRICT(S): Citywide

CONTACT/PHONE NUMBER: Ann Sasaki/858-292-6402 MS 901A

**DESCRIPTIVE SUMMARY OF ITEM:**

Approval of the Mayor's proposal to submit the renewal application for a modified National Pollutant Discharge Elimination System (NPDES) Permit for the Point Loma Wastewater Treatment Plant and authorization to enter into a Cooperative Agreement between the City of San Diego and San Diego Coastkeeper, Surfrider Foundation San Diego Chapter, Coastal Environmental Rights Foundation, and the San Diego Audubon Society in support of the Point Loma National Pollutant Discharge Elimination System (NPDES) Permit and Pure Water San Diego.

**STAFF RECOMMENDATION:**

Staff recommends approval of the requested actions.

**EXECUTIVE SUMMARY OF ITEM BACKGROUND:**

The City of San Diego operates the Metropolitan Sewerage System (Metro System) which provides wastewater treatment and disposal for the City of San Diego (City) and 12 Participating Agencies. It serves a population of 2.5 million and consists of four treatment plants, major pipelines and pump stations, as well as, two ocean outfalls. The Point Loma Wastewater Treatment Plant (Point Loma) is the main treatment facility with a permitted capacity of 240 million gallons per day (mgd). It discharges treated effluent into the Pacific Ocean 4.5 miles offshore at a depth of over 300 feet.

Point Loma operates with a modified National Pollutant Discharge Elimination System (NPDES) Permit that includes a variance from the Federal Clean Water Act (CWA) secondary requirements for the discharge of Total Suspended Solids (TSS) and Biochemical Oxygen Demand (BOD). The permit contains modified standards for only these two substances; all other constituents in the discharge must meet the same standards as in a secondary permit.

Section 301(h) of the CWA allows the Environmental Protection Agency (EPA) to grant variances to ocean dischargers who demonstrate that the modified standards are not harmful to the ocean. Additionally, in the 1990s, the City worked with the local congressional delegation to pass special legislation modifying the CWA to provide the City with its own unique ability to apply for a modified permit for the Point Loma Plant. This legislation known as the Ocean Pollution Reduction Act (OPRA) was signed into law on October 31, 1994 and as a result, the City received its first modified permit (waiver) in 1995. The permit must be renewed every five years. The current Point Loma permit expires on July 31, 2015. Regulations require that a renewal application be submitted six months in advance or by February 1, 2015.

In determining what course of action to take at Point Loma, the City considered the following factors,

- Protecting the Environment;
- Meeting regulatory requirements;
- Protecting ratepayers and reducing rate impacts; and
- Ensuring future water supply needs

The City has several alternatives:

1. Convert the Point Loma Wastewater Treatment Plant to Secondary Treatment;
2. Submit a modified permit application with no other commitments; and
3. The Preferred Alternative - Submit a modified permit application, commit to building potable reuse and modify the Clean Water Act to allow for secondary equivalency

To develop consensus on how to move forward with the modified permit renewal, city staff has been meeting regularly since July 2013 with a diverse group of stakeholders. These stakeholders include the Metro Participating Agencies, as well as the local environmental groups represented by the San Diego Coastkeeper, Surfrider Foundation, Coastal Environmental Rights Foundation, and the San Diego Audubon Society. As a result of this effort, a consensus has been reached on a recommended strategy. This strategy includes submitting a modified permit renewal application, implementation of the Pure Water Program and working on obtaining approval of secondary equivalency.

To memorialize the support of the environmental stakeholders, City staff has negotiated a Cooperative Agreement with the environmental stakeholders. Under the terms of the Agreement the City will commit to the implementation of Pure Water San Diego and the production of 83 million gallons per day (mgd) of potable reuse by 2035 in return for the environmental stakeholder's commitment to support the City's next, and all future Point Loma permit applications and to support secondary equivalency. The Cooperative Agreement outlines each party's responsibilities, provides a schedule for implementation of the Pure Water Program, and includes remedies and opportunities for renegotiation should any part of the overall strategy not be possible to implement.

#### FISCAL CONSIDERATIONS:

Not applicable at this time. Any future expenditure of funds related to the Point Loma Wastewater Treatment Plant - National Pollutant Discharge Elimination System (NPDES) Permit Application or Pure Water San Diego will require future council approval.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE): N/A

#### PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On July 17, 2012 the City Council accepted (R-307584) the Recycled Water Study. On April 23, 2013 the City Council accepted (R-308121) the Water Purification Demonstration Project Report. On April 29, 2014 the City Council (R-308906) adopted a resolution in support of Pure Water San Diego.

#### COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Independent Rates Oversight Committee approved the recommended actions on September 15, 2014. The Metro Commission will review the recommended actions on October 16, 2014.

In April 2014, the City formed the Pure Water Working Group to provide diverse viewpoints and input on the City's efforts to provide a safe, secure and local drinking water supply. The group includes representatives from community planning groups, businesses, City Council District Offices, environmental groups, and water coalitions. The group has been meeting on a monthly basis since May 2014.

City staff has made over 200 presentations regarding potable reuse and the water purification demonstration plant at the North City Water Reclamation Plant since 2010.

#### KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Water and Wastewater Ratepayers, Environmental Community, Business Community.

Sasaki, Ann

Originating Department

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Deputy Chief/Chief Operating Officer



THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED: October 2, 2014 REPORT NO: 14-061.  
ATTENTION: Council President and Members of the City Council  
SUBJECT: Point Loma Wastewater Treatment Plant - National Pollutant Discharge Elimination System (NPDES) Permit Application  
REFERENCE: City Council Resolution R-308906, adopted on April 29, 2014

REQUESTED ACTIONS:

1. Approve the Mayor's proposal to submit the renewal application for a modified National Pollutant Discharge Elimination System (NPDES) Permit for the Point Loma Wastewater Treatment Plant
2. Authorize the Mayor or his designee to enter into a Cooperative Agreement between the City of San Diego and San Diego Coastkeeper, Surfrider Foundation San Diego Chapter, Coastal Environmental Rights Foundation, and the San Diego Audubon Society.

STAFF RECOMMENDATION:

Approve the Requested Actions.

SUMMARY:

Background

The City of San Diego operates the Metropolitan Sewerage System (Metro System) which provides wastewater treatment and disposal for the City of San Diego (City) and 12 Participating Agencies. It serves a population of 2.5 million and consists of four treatment plants, major pipelines and pump stations, as well as, two ocean outfalls. The Point Loma Wastewater Treatment Plant (Point Loma) is the main treatment facility with a permitted capacity of 240 million gallons per day (mgd). It discharges treated effluent into the Pacific Ocean 4.5 miles offshore at a depth of over 300 feet.

Point Loma operates with a modified National Pollutant Discharge Elimination System (NPDES) Permit that includes a variance from the Federal Clean Water Act (CWA) secondary requirements for the discharge of Total Suspended Solids (TSS) and Biochemical Oxygen Demand (BOD). The permit contains modified standards for only these two substances; all other constituents in the discharge must meet the same standards as in a secondary permit. This variance has ensured ocean protection while avoiding unnecessary and expensive secondary treatment upgrades.



Section 301(h) of the CWA allows the Environmental Protection Agency (EPA) to grant variances to ocean dischargers who demonstrate that the modified standards are not harmful to the ocean. Additionally, in the 1990s, the City worked with the local congressional delegation to pass special legislation modifying the CWA to provide the City with its own unique ability to apply for a modified permit for the Point Loma plant. This legislation, known as the Ocean Pollution Reduction Act (OPRA), was signed into law on October 31, 1994, and as a result, the City received its first modified permit (waiver) in 1995. The permit must be renewed every five years. The current Point Loma permit expires on July 31, 2015. Regulations require that a renewal application be submitted six months in advance or by February 1, 2015.

### Discussion

In determining what course of action to take at Point Loma, the City considered the following factors:

- protecting the environment;
- meeting regulatory requirements;
- protecting ratepayers and reducing rate impacts; and
- ensuring future water supply needs

The City has several alternatives:

#### **1. Convert the Point Loma Wastewater Treatment Plant to Secondary Treatment**

While this alternative will comply with the CWA, without the need for a variance, this alternative is not recommended. The City is unique from most other wastewater dischargers in that Point Loma discharges its treated effluent through a very long and deep ocean outfall. The thermocline, a temperature layer within the water, keeps suspended solids deep. This discharge point also has the advantages of site-specific ocean conditions that include strong ocean currents, and a bottom topography and outfall diffuser design that provides superior dispersion and allows the discharge to be assimilated into the ocean water with a high degree of dilution. The City also conducts one of the most extensive ocean monitoring programs in the world. Years of comprehensive monitoring have demonstrated no negative impacts to the marine organisms surrounding the outfall.

Additionally, the scientific community has found that for an open coastal discharge like Point Loma's, BOD is of little concern. At the request of Congress the National Research Council completed a study in 1993 entitled "*Managing Wastewater in Coastal Urban Areas*", wherein it was determined that "*In open coastal waters and well-flushed estuaries, oxygen depletion due to BOD from wastewater discharges through a well designed outfall is generally of no ecological concern.*" Thousands of dissolved oxygen samples have been taken in the ocean off Point Loma and determinations have been made that no negative effect from BOD has ever been observed.

During the last permit application process in 2007, UCSD/Scripps Institution of Oceanography and San Diego State University professors conducted an independent review of the City's ocean monitoring data and concluded that there is no evidence of significant adverse impacts from the

Point Loma Ocean Outfall; there are no discernible connections between the wastewater plume and shoreline water quality; and the monitoring program is comprehensive and well conducted.

Given that there are no significant impacts to the ocean marine environment, there are other more cost effective solutions that will reuse the effluent that is currently being discharged into the ocean.

## **2. Submit a modified permit application with no other commitments**

The City has the legal authority under OPRA to apply for a modified permit. Based on the City's extensive ocean monitoring program, and the efficacy of its treatment plant operations, the City would have no difficulty meeting the requirements for a modified permit. However, because a modified permit is not a standard process there is always the uncertainty that the EPA could deny the permit.

During the last permit process, environmental representative from the San Diego Coastkeeper and the Surfrider Foundation along with the California Coastal Commission expressed concern that the City was not doing enough to recycle its wastewater and reduce the amount of flow wasted into the ocean. As part of an agreement with the environmental community to support the last Point Loma modified permit, the City agreed to prepare a Recycled Water Study to look at maximizing the potential for reclamation and reuse and to minimize flows to Point Loma. That study, approved by the City Council in 2012, identified the potential to create up to 83 mgd of locally controlled potable water.

If the City simply submits a modified permit application with no commitment to create potable water, the environmental community will vigorously oppose the permit. Also, the Coastal Commission in its October 25, 2012 letter to then Mayor Sanders stated that the Commission would oppose the City's permit if the City did not implement potable reuse and begin complying with secondary treatment standards.

## **3. The Preferred Alternative - Submit a modified permit application, commit to building potable reuse and modify the Clean Water Act to allow for secondary equivalency**

As stated above, the Recycled Water Study demonstrated that it is possible to reduce flows to Point Loma, thereby reducing the capital cost of secondary treatment upgrades, and create a new potable reuse water supply.

Given that 85 percent of the water in the City is from imported water supplies and is vulnerable to impacts from shortages and susceptible to price increases beyond our control, it makes sense to explore the potable reuse of water. When you view both water supply and wastewater discharge issues together, a comprehensive solution that will make use of an otherwise wasted resource and provide locally controlled, reliable water is the most cost effective solution.

On April 23, 2013, the City Council (R-308121) directed staff to define in greater detail the City's potable reuse options and to determine a preferred implementation plan and schedule that considers potable reuse options for maximizing the local water supply and reducing flows to the



Point Loma plant. This potable reuse program, referred to as Pure Water San Diego, will produce 83 mgd of safe, reliable, locally controlled potable water by 2035. On April 29, 2014, the City Council adopted a resolution (R-308906) supporting the implementation of Pure Water San Diego and the development of an implementation strategy to accomplish secondary equivalency at Point Loma through implementation of Pure Water.

In compliance with the City Council Resolution, staff is proposing submittal of a modified permit application based on the Pure Water San Diego Program goal of developing 83 mgd of potable reuse water by 2035. This results in off-loading Point Loma by removing flows and constituents at the upstream reuse facilities. This diversion would reduce the amount of water, as well as TSS and BOD discharged to the ocean. With sufficient off-loading, the total TSS discharge could be equivalent to or less than what would be discharged if Point Loma were a secondary plant at full capacity (9,942 metric tons per year). Since it is well established that BOD is of minor concern for a discharge facility like Point Loma, the resulting discharge could be found to be equivalent to secondary treatment for purposes of compliance with the CWA secondary treatment standard. Because the present law does not recognize this form of secondary equivalency, an administrative solution or change to the CWA will be required. Approval of secondary equivalency will mean that Point Loma will be permitted like any other secondary treatment facility, and no future modified permits or waivers will be required.

To develop consensus on how to move forward with the modified permit renewal, city staff has been meeting regularly since July 2013 with a diverse group of stakeholders. These stakeholders include the Metro Participating Agencies, as well as the local environmental groups represented by the San Diego Coastkeeper, Surfrider Foundation San Diego Chapter, Coastal Environmental Rights Foundation, and San Diego Audubon Society. As a result of this effort, a consensus has been reached on a recommended strategy. This strategy includes submitting a modified permit renewal application, implementation of the Pure Water Program and working on obtaining approval of secondary equivalency.

*a) Modified Permit Application*

The modified permit renewal will be based on compliance with the CWA 301(h) requirements as modified by OPRA; the proposed requirements for secondary equivalency; and a reduction in permitted TSS mass emissions from the current permit level of 13,598 metric tons per year to a maximum of 12,000 metric tons per year commencing on December 31, 2015.

Additionally, the City will commit to starting the design and environmental review for the first phase of at least 15 mgd of potable water from the Pure Water Program. Also included in the permit application as future goals, pending approval of secondary equivalency, will be the delivery of at least 15 mgd of water from the Pure Water Program by 2023, 30 mgd (cumulative) by 2027 and the final total of 83 mgd (cumulative) by 2035. This phased approach will allow the City to move forward with implementation in a timely manner while allowing time to continue to work with state regulators on indirect and direct potable reuse criteria.

*b) Secondary Equivalency*

The City and its stakeholders have agreed to proposed language for secondary equivalency to set modified standards for TSS and BOD based upon Point Loma's unique situation. In addition to these modified standards, the City will maintain its current enhanced ocean monitoring program and Industrial Source Control Program.

The City has briefed our local congressional delegation and both Senators Feinstein and Boxer on this proposal. With approval of secondary equivalency, either through an administrative solution or legislative action, all uncertainty related to future permit renewals will be resolved and the remaining flow at Point Loma will not have to be converted to secondary treatment, saving ratepayers over \$800 million.

The basis for the modified permit renewal and the terms for secondary equivalency were agreed upon by all stakeholders. Two subject matter experts, Dr. Mike Stenstrom, a civil engineer from UCLA and Dr. Daniel Schlenk a marine toxicologist from UC Riverside, provided technical support to the environmental groups and found no issues with the proposed recommendation. Additionally, a panel of scientists from UCSD and Scripps Institution of Oceanography are evaluating the proposal and we expect their review to be completed by mid-October 2014.

Cooperative Agreement

To memorialize the support of the environmental stakeholders, City staff has negotiated a Cooperative Agreement with the environmental stakeholders. Under the terms of the Agreement, the City will commit to the implementation of Pure Water San Diego and the production of 83 mgd of potable reuse by 2035 in return for the environmental stakeholder's commitment to support the City's next, and all future, Point Loma permit applications and to support secondary equivalency. The Cooperative Agreement outlines each party's responsibilities, provides a schedule for implementation of the Pure Water Program, and includes remedies and opportunities for renegotiation should any part of the overall strategy not be possible to implement.

FISCAL CONSIDERATIONS:

The total capital cost to upgrade the Point Loma Wastewater Treatment Plant to secondary treatment is \$2.1 billion. The capital cost for Pure Water San Diego is approximately \$2.5 to 3 billion. The cost of imported water has doubled in the last five years and it is expected to increase in the future. When evaluating future wastewater and water costs, the integrated water-wastewater solution afforded by Pure Water San Diego is the more cost effective solution when compared to the overall \$23 billion cost of secondary treatment and the purchase of imported water versus Pure Water at \$21 billion by 2050.

Any future expenditure of funds related to Pure Water San Diego will require a separate City Council approval.



PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On July 17, 2012, the City Council accepted (R-307584) the Recycled Water Study. On April 23, 2013, the City Council accepted (R-308121) the Water Purification Demonstration Project Report. On April 29, 2014, the City Council (R-308906) adopted a resolution in support of Pure Water San Diego.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Independent Rates Oversight Committee approved the recommended actions on September 15, 2014. The Metro Commission will review the recommended actions on October 16, 2014.

In April 2014, the City formed the Pure Water Working Group to provide diverse viewpoints and input on the City's efforts to provide a safe, secure and local drinking water supply. The group includes representatives from community planning groups, businesses, City Council District Offices, environmental groups, and water coalitions. The group has been meeting on a monthly basis since May 2014.

City staff has made over 200 presentations regarding potable reuse and the water purification demonstration plant at the North City Water Reclamation Plant. Most recently, staff has made presentations to the following organization:

August 12, 2014	Regional Chamber of Commerce
September 2, 2014	Equinox Center Policy Committee
September 11, 2014	Industrial Environmental Association Water Committee
September 11, 2014	San Diego Taxpayers Association
September 16, 2014	Water Reliability Coalition
September 22, 2014	CONNECT Policy Committee
October 6, 2014	C3

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Water and wastewater ratepayers, the environmental community, and the business community.



Ann Sasaki  
Assistant Public Utilities Director  
Pure Water Program

Attachment: Cooperative Agreement between the City of San Diego and Environmental Stakeholders



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# COOPERATIVE AGREEMENT IN SUPPORT OF PURE WATER SAN DIEGO

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City of San Diego  
San Diego Coastkeeper  
San Diego County Surfrider  
CERF  
San Diego Audubon Society

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October 2014

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## **COOPERATIVE AGREEMENT IN SUPPORT OF PURE WATER SAN DIEGO**

This Cooperative Agreement (Agreement) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, by and between San Diego Coastkeeper (Coastkeeper), the San Diego Chapter of Surfrider Foundation (Surfrider), the Coastal Environmental Rights Foundation (CERF), and the San Diego Audubon Society (Audubon), collectively referred to as Stakeholders, and the City of San Diego (City), a municipal corporation, for purposes of supporting and implementing potable reuse of wastewater and secondary equivalency at the Point Loma Wastewater Treatment Plant, known as the Pure Water San Diego program.

### **RECITALS**

- A. The City's Point Loma Wastewater Treatment plant operates under a National Pollutant Discharge Elimination System (NPDES) permit which allows for a variance from secondary treatment requirements pursuant to sections 301(h) and 301(j)(5) of the Clean Water Act.
- B. On March 18, 2005, the City entered into a settlement agreement with Surfrider, Coastkeeper (then known as San Diego Baykeeper), and the San Diego Chapter of the Sierra Club wherein pending litigation over the City's NPDES permit was dismissed in return for the City evaluating an improved ocean monitoring program, testing new treatment technology at the Point Loma Wastewater Treatment Plant, and studying and evaluating an expanded water reuse program.
- C. On February 17, 2009, the City entered into a cooperative agreement with Surfrider and Coastkeeper wherein they agreed not to oppose the renewal of the City's NPDES permit in return for the City conducting a study of ways to offload wastewater from the Point Loma Wastewater Treatment Plant through increased water reuse, which later became known as the Recycled Water Study.
- D. On July 17, 2012, the City Council received the Recycled Water Study, which concludes that potable reuse achieves favorable water costs, provides reliability and local control of the water supply, enhances environmental sustainability, improves water quality, and empowers long-term cost control, pursuant to Resolution No. R-307585.
- E. Stakeholders have expressed continuing concern over the City's NPDES permit for the Point Loma Wastewater Treatment Plant while supporting water reuse strategies described in the Recycled Water Study.
- F. The City has determined that instead of converting the Point Loma Wastewater Treatment Plant to a secondary treatment plant, equivalent results can be achieved by offloading wastewater flow from the Plant to other existing and new facilities (secondary equivalency).

G. The strategy of achieving secondary equivalency at the Point Loma Wastewater Treatment Plant through potable reuse of wastewater has been named the Pure Water San Diego program.

H. On April 29, 2014, the City Council gave its approval and support for the Pure Water San Diego program, pursuant to Resolution No. R-308906.

NOW, THEREFORE, in consideration of these recitals and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Stakeholders and the City hereby agree as follows:

## **AGREEMENT**

### **ARTICLE 1 – PROPOSED LEGISLATION**

**1.1 Ocean Pollution Reduction Act.** The Stakeholders shall designate from among themselves one or more parties to act as Stakeholder representatives. The City and the Stakeholder representatives will use reasonable efforts to have federal legislation passed in accordance with the proposal called the Ocean Pollution Reduction Act II (OPRA II), which is attached as Exhibit A and incorporated herein by reference. Generally, OPRA II will allow the City's NPDES permit to be based on secondary equivalency with a commitment to implement potable reuse of wastewater.

**1.2 Lobbying.** The City shall retain the services of one or more professional lobbyists to advocate for OPRA II. The City and the Stakeholder representatives shall also meet with elected and appointed officials as each may determine is reasonably necessary to support OPRA II. If the City and the Stakeholder representatives are jointly meeting with elected or appointed officials, the City may, in its sole discretion, pay for the travel and lodging of the Stakeholder representatives according to the same rules applicable to City employees.

**1.3 Other Environmental Groups.** Stakeholders shall meet with other environmental groups not signatory to this Agreement that Stakeholders reasonably believe may object to OPRA II. Stakeholders will use reasonable efforts to convince those environmental groups not to object to OPRA II. The City shall jointly attend a reasonable number of such meetings with other environmental groups at the request of Stakeholders. The City may, in its sole discretion, enter into separate agreements with other environmental groups or other organizations to support OPRA II and the City's applications for NPDES permits.

**1.4 Legislative Amendments.** If OPRA II is introduced or amended with language that is materially different than that in Exhibit A, the City and Stakeholders shall meet as soon as reasonably possible to discuss whether the legislation is mutually acceptable. If the legislation is not mutually acceptable, and the parties cannot agree on a strategy to return OPRA II to its original or other mutually acceptable form, then this Agreement may be terminated pursuant to sections 5.3.2 or 5.4.2.

**1.5 Legislative Deadline.** If OPRA II is not enacted by August 1, 2019, it shall be considered a *force majeure* event entitling the parties to an extension in time for performance pursuant to section 5.2. If OPRA II is not enacted by thirty days before the deadline for the City to file the next application after the 2015 application to renew the NPDES permit, this Agreement may be terminated pursuant to sections 5.3.3 or 5.4.3.

**1.6 Regular Meetings.** The City and Stakeholders anticipate that regular meetings will be necessary to discuss the progress of the Pure Water San Diego program, at least until OPRA II is enacted. The City shall host, and Stakeholders shall attend, at least four meetings per year to discuss the progress of, and potential impediments to, the Pure Water San Diego program until OPRA II is enacted. After OPRA II is enacted, scheduling and attendance at meetings will be optional.

## **ARTICLE 2 – PERMIT APPLICATIONS**

**2.1 2015 Application.** The City shall submit an application to renew the NPDES permit for the Point Loma Wastewater Treatment Plant no later than January 30, 2015, unless an extension is granted by the United States Environmental Protection Agency (EPA). The City shall diligently pursue approval of the 2015 application. The Stakeholder representatives shall attend all administrative hearings where the 2015 application will be discussed and express their support for approval of the 2015 application in the context of secondary equivalency and potable reuse. Stakeholders not expressing their support at the administrative hearings shall provide such support in writing to the agencies conducting the administrative hearings.

**2.2 Content.** The City's 2015 application shall be submitted to EPA in compliance with OPRA II in anticipation of its enactment. The City's 2015 application shall also comply with sections 301(h) and 301(j)(5) (as it currently exists) of the Clean Water Act in the event OPRA II is not enacted before the EPA completes its review of the City's application.

**2.3 Amendments.** If it becomes necessary for the City to amend its 2015 application, the City shall share the proposed amendment with Stakeholders for review and comment, at least thirty (30) days before submitting the amendment to EPA. The City shall consider comments received from Stakeholders, but the City is not obligated to incorporate comments into the amendment. Any amendments submitted by the City must comply with OPRA II. A Stakeholder may submit any dispute over an amendment to mediation pursuant to Article 6.

**2.4 Subsequent Applications.** If the City receives a NPDES permit pursuant to its 2015 application, the City shall timely submit subsequent applications for NPDES permits in compliance with OPRA II.

**2.5 Waiver.** Each Stakeholder waives and relinquishes its right to challenge or protest the eligibility, validity or legality of the City's 2015 application and the resulting NPDES permit, both administratively and through litigation, whether the NPDES permit is issued under OPRA II, or under sections 301(h) and 301(j)(5) of the Clean Water Act provided the application and NPDES permit comply with OPRA II. This waiver similarly applies to subsequent applications and NPDES permits, but only if the subsequent applications and NPDES permits comply with

OPRA II. This waiver does not prohibit a Stakeholder from challenging whether the City is in compliance with its NPDES permit (as opposed to the validity or legality of the NPDES permit itself). This waiver does not apply to a Stakeholder that has withdrawn from this Agreement pursuant to section 5.3.

### **ARTICLE 3 – PROGRAM IMPLEMENTATION**

**3.1 Program Implementation.** The City shall design, construct, and operate facilities shown in Exhibit B in accordance with the deadlines and milestones set forth therein, contingent on all of the following events occurring in time for the City to meet them. The City shall further use reasonable efforts to ensure the following events occur in a timely manner:

**3.1.1 Legislation.** OPRA II is enacted.

**3.1.2 Environmental Review.** Environmental review is completed under the California Environmental Quality Act, and the National Environmental Policy Act if applicable.

**3.1.3 Funding.** Sufficient funding is identified and appropriated pursuant to San Diego City Charter sections 80 and 99.

**3.1.4 Harbor Drive Site.** The City receives the necessary approvals and plan amendments to construct and operate a new treatment facility on the 25-acre site near Harbor Drive currently leased to the Public Safety Training Institute.

**3.1.5 Regulatory Approval.** The City receives regulatory approval to implement potable reuse at the flow rates specified in OPRA II.

**3.2 Deadlines and Milestones.** The deadlines and milestones for achieving the requirements of OPRA II are identified in Exhibit B.

**3.2.1 Deadlines** Except as otherwise provided in this Agreement, the failure to meet a deadline is a material breach of this Agreement. If the City or a Stakeholder believes one of the events listed in section 3.1 may not occur in time for the City to meet a deadline, the parties shall promptly meet to discuss changing the deadline or event through an amendment to this Agreement.

**3.2.2 Milestones.** The failure to meet a milestone is not a material breach of this Agreement. The City may extend milestones by up to one year each by sending written notice to Stakeholders prior to the date of the milestone describing the length and reason for the extension. If the City or a Stakeholder believes the City may not meet a milestone, even after extended by the City, the parties shall promptly meet to discuss ways to keep the Pure Water San Diego program on schedule.

**3.3 Pure Water CIP Plan.** The City shall develop a Capital Improvements Program (CIP) plan for the Pure Water San Diego program by July 1, 2015, and provide copies to Stakeholders for review and comment. The Pure Water CIP plan shall include a description of all new, expanded,



and modified facilities necessary to comply with OPRA II, the dates when the design, construction, testing and operation of the facilities are anticipated to start and finish, and the estimated cost of each facility. The Pure Water CIP plan shall be based on indirect potable reuse, but the City may revise the plan later if direct potable reuse is feasible. The City shall meet with Stakeholders to discuss their comments, but the City is not obligated to incorporate comments into the Pure Water CIP plan. A Stakeholder may submit any dispute related to the Pure Water CIP plan to mediation pursuant to Article 6.

**3.4 Progress Reports and Updates** The City shall prepare progress reports annually by December 31 describing the City's progress in meeting the deadlines, milestones, and the Pure Water CIP plan. The City shall also update the Pure Water CIP plan annually by December 31, if necessary. The Pure Water CIP plan is subject to change based on factors such as feasibility studies, environmental analysis, changes in the cost of labor and material, new water reclamation projects of other agencies, and evolving regulatory requirements for potable reuse. If a progress report demonstrates that the City is not on schedule to meet the deadlines, milestones, or the Pure Water CIP plan, the progress report shall include a plan to bring the City back on schedule. The City shall provide the progress reports and any updates to the Pure Water CIP plan to Stakeholders for review and comment. The City shall consider comments received from Stakeholders, and meet with Stakeholders at their request, but the City is not obligated to incorporate comments into the progress reports. A Stakeholder may submit any dispute related to the City's progress reports or updates to the Pure Water CIP plan to mediation pursuant to Article 6.

## **ARTICLE 4 – OCEAN MONITORING**

**4.1 Ocean Monitoring.** The City shall continue the ocean monitoring program for the Point Loma outfall as set forth in NPDES Permit No. CA0107409 (Order No. R9-2009-0001), which is hereby incorporated by reference.

**4.2 Reports.** The City shall annually complete a Receiving Waters Monitoring and Assessment Report, or equivalent report, for the Point Loma Ocean Outfall and post the latest report on the City's website by every July 31. The City shall notify Stakeholders once the report is available on the City's website.

**4.3 Program Changes.** If the City's NPDES permit requires ocean monitoring that differs from the ocean monitoring required by this Agreement, the City shall comply with whichever requirements are stricter. If the City or a Stakeholder desires to change the ocean monitoring required by this Agreement, the City and Stakeholders shall meet to discuss potential modifications to the program. If the City and Stakeholders agree on changes to the ocean monitoring program, such changes shall be memorialized in writing signed by the parties, and become an enforceable obligation under this Agreement. If the City and Stakeholders cannot reach an agreement, the dispute shall be submitted to mediation pursuant to Article 6 upon the request of any party. Ocean monitoring required by this Agreement shall not be changed, however, without the written consent of all parties. This section does not preclude the City from performing additional ocean monitoring beyond what is required by this Agreement.

## ARTICLE 5 – DURATION OF AGREEMENT

**5.1 Term of Agreement.** This Agreement shall be effective on the date of the last signature to this Agreement. This Agreement shall expire on December 31, 2035, or the date 83 million gallons per day of potable reuse is achieved, whichever occurs later, unless this Agreement is terminated sooner pursuant to this Article.

**5.2 Force Majeure.** In the event the performance of the City or Stakeholders is delayed due to causes which are outside their control, and could not be avoided by the exercise of due care, which may include, but is not limited to, war, terrorist attack, act of God, government regulations, labor disputes, strikes, fires, floods, adverse weather or elements necessitating cessation of work, inability to obtain materials, labor or equipment, then the time for performance shall be extended by an amount equivalent to the length of delay. *Force majeure* also includes the events listed in section 3.1 to the extent the City's performance is delayed because any of the listed events has not yet occurred, or if OPRA II is not enacted by August 1, 2019, pursuant to section 1.5.

**5.3 Termination by Stakeholders.** Any Stakeholder may withdraw from this Agreement prior to its expiration date upon the occurrence of any of the qualifying events set forth below by giving written notice of such withdrawal to the City. Such notice shall set forth the grounds for withdrawal and be delivered by certified mail with return receipt for delivery. Withdrawal shall be effective sixty (60) days after receipt of the notice. The right to withdraw must be exercised by mailing notice to the City within one year of the qualifying event or the right to withdraw is deemed waived unless an extension is agreed to in writing by the City. Each occurrence of a qualifying event gives rise to a new right to withdraw. The qualifying events are:

**5.3.1 Breach.** A material breach of this Agreement by the City which is not cured within thirty (30) days of written notice of the breach from the Stakeholders.

**5.3.2 Legislative Amendments.** OPRA II is introduced or amended prior to enactment with language unacceptable to the Stakeholder pursuant to section 1.4.

**5.3.3 Legislative Deadline.** OPRA II is not enacted by thirty days before the deadline for the City to file the next application after the 2015 application to renew the NPDES permit, pursuant to section 1.5.

**5.3.4 Change in Law.** OPRA II is enacted, but later repealed or amended to allow the Point Loma Wastewater Treatment Plant to discharge wastewater with a higher concentration or level of suspended solids or biological oxygen demand than the levels in OPRA II, or to allow the City to implement potable reuse in a flow rate less than specified in OPRA II.

**5.4 Termination by the City.** The City may terminate this Agreement prior to its expiration date upon the occurrence of any of the qualifying events set forth below by giving written notice of such termination to Stakeholders. Such notice shall set forth the grounds for termination and be delivered by certified mail with return receipt for delivery. Termination shall be effective

sixty (60) days after receipt of the notice. The right to terminate must be exercised by mailing notice to Stakeholders within one year of the qualifying event or the right to terminate is deemed waived unless an extension is agreed to in writing by Stakeholders. Each occurrence of a qualifying event gives rise to a new right to terminate. The qualifying events are:

**5.4.1 Breach.** A material breach of this Agreement by a Stakeholder which is not cured within thirty (30) days of written notice of the breach from the City.

**5.4.2 Legislative Amendments.** OPRA II is introduced or amended prior to enactment with language unacceptable to the City pursuant to section 1.4.

**5.4.3 Legislative Deadline.** OPRA II is not enacted by thirty days before the deadline for the City to file the next application after the 2015 application to renew the NPDES permit, pursuant to section 1.5.

**5.4.4 Change in Law.** A change in State or Federal law, or implementation of existing State or Federal law, will require the Point Loma Wastewater Treatment Plant to discharge wastewater with a lower concentration or level of suspended solids or biological oxygen demand than the levels in OPRA II.

**5.4.5 Order.** A Court order or the order of a State or Federal agency requires the Point Loma Wastewater Treatment Plant to discharge wastewater with a lower concentration or level of suspended solids or biological oxygen demand than the levels in OPRA II.

**5.4.6 Withdrawal by Stakeholder.** A Stakeholder has withdrawn from this Agreement pursuant to section 5.3 and subsequently takes action inconsistent with the purpose or intent of this Agreement.

**5.5 Effect of Termination.** Withdrawal by a Stakeholder shall release that Stakeholder from all obligations under this Agreement upon the effective date of termination. Withdrawal by a Stakeholder shall terminate the Agreement only as to them, and shall not affect the Agreement as to the City and any remaining Stakeholders unless the City terminates the Agreement. Termination of this Agreement by the City shall release all parties from their obligations under this Agreement upon the effective date of the City's termination.

## **ARTICLE 6 – DISPUTE RESOLUTION**

**6.1 Mandatory Mediation.** If a dispute arises between the City and any Stakeholder relating to a party's obligations under this Agreement, the interpretation of OPRA II, the validity or legality of the City's application or NPDES permit, or the City's compliance with its NPDES permit, that cannot be resolved through informal discussions and meetings, notwithstanding anything to the contrary in the Clean Water Act the City and the Stakeholder shall first endeavor to settle the dispute in an amicable manner, using mandatory non-binding mediation under the rules of JAMS, AAA, or any other neutral organization agreed upon by the parties before having recourse in a court of law. Unless otherwise agreed in writing by the parties, mediation must be

completed prior to termination of this Agreement by Stakeholders or the City, except if the reason for termination is because OPRA II was not enacted by the time specified in section 1.5.

**6.2 Selection of Mediator.** A single mediator that is acceptable to the City and the Stakeholder shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Agreement, if possible, and chosen from lists furnished by JAMS, AAA, or any other agreed upon mediator.

**6.3 Mediation Expenses.** The expenses of witnesses for either side shall be paid by the party producing such witnesses. All mediation costs, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne by the City if the subject of the mediation is the City's compliance with its NPDES permit, or if mediation has not occurred under this Article within the last twenty-four months. Otherwise, mediation costs shall be paid half by the City and half by the Stakeholders unless otherwise agreed.

**6.4 Conduct of Mediation.** Mediation hearings will be conducted in an informal manner. Discovery shall not be allowed. The discussions, statements, writings and admissions will be confidential to the proceedings (pursuant to California Evidence Code Sections 1115 - 1128) and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. The City and the Stakeholder shall have representatives attend the mediation who are authorized to settle the dispute, though the City's recommendation of settlement may be subject to the approval of the Mayor and City Council. Either party may have attorneys, witnesses or experts present.

**6.5 Mediation Results.** Any resultant agreements from mediation shall be documented in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

## **ARTICLE 7 – REMEDIES**

**7.1 Remedies for Breach.** Except as otherwise provided in this section, the sole and exclusive remedy for breach of this Agreement is termination pursuant to sections 5.3 and 5.4. Damages shall not be recoverable by any party. Specific performance shall be available to enforce ocean monitoring under article 4 and mediation under article 6. This Agreement shall not affect any remedies available to the parties under the Clean Water Act.

## **ARTICLE 8 – GENERAL PROVISIONS**

**8.1 Contract Interpretation.** This Agreement and its exhibits are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with industry standards. This Agreement is entered into and shall be construed and interpreted in accordance with the laws of the State of California without regard to the conflicts or choice of law provisions thereof.



**8.2 Mutual Obligations.** The City and Stakeholders commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under this Agreement.

**8.3 Successors-In-Interest.** This Agreement and all rights and obligations contained herein shall be in effect whether or not any or all parties to this Agreement have been succeeded by another entity, and all rights and obligations of the parties signatory to this Agreement shall be vested and binding on their successors in interest.

**8.4 Third Party Beneficiaries.** Nothing in this Agreement shall grant rights or benefits to anyone other than the City and Stakeholders, and any alleged third party beneficiaries are hereby expressly disclaimed.

**8.5 Severability.** Should any provision of this Agreement be held invalid or illegal by a court or administrative agency of competent jurisdiction, such invalidity or illegality shall not invalidate the whole of this Agreement, but, rather, the Agreement shall be construed as if it did not contain the invalid or illegal provision, and the rights and obligations of the parties shall be construed and enforced accordingly, except to the extent that enforcement of this Agreement without the invalidated provision would materially and adversely frustrate either or both parties' essential objectives set forth in this Agreement.

**8.6 Waivers.** Except as otherwise specified in this Agreement, the failure of either party to enforce any of the provisions of this Agreement or to require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of such provisions unless the waiver is in writing. Prior waivers shall not preclude the right of either party to thereafter enforce each and every provision of this Agreement.

**8.7 Limitation on Powers.** Nothing in this Agreement shall be construed as a limitation upon the powers of the City as a chartered city of the State of California.

**8.8 Notices.** All notices required to be given under this Agreement must be in writing and either served personally, sent by facsimile transmission, or mailed by express or certified mail with delivery confirmation. Notices shall be effective upon receipt. Notices shall be mailed to:

Surfrider Foundation  
San Diego County Chapter  
9883 Pacific Heights Blvd., Suite D  
San Diego, CA 92121

San Diego Coastkeeper  
2825 Dewey Road, Suite 200  
San Diego, CA 92106

Coastal Environmental Rights Foundation  
1140 South Coast Highway 101  
Encinitas, CA 92024

San Diego Audubon Society  
4010 Morena Blvd., Suite 100  
San Diego, CA 92117

City of San Diego  
Public Utilities Department  
9192 Topaz Way  
San Diego, CA 92123

**8.9 Assignment.** Neither party shall assign its rights or obligations under this Agreement without the other party's prior written approval, which shall not be unreasonably withheld. Any attempted assignment in violation of this section shall be void and incapable of creating any contractual relationship between a party and a putative assignee.

**8.10 Incorporation of Exhibits.** All exhibits referenced in this Agreement are hereby incorporated into and made a part of this Agreement by reference.

**8.11 Integration Clause.** The City and Stakeholders represent, warrant and agree that no oral promise or agreement not expressed herein has been made to them, that this Agreement contains the entire agreement between the parties, that this Agreement supersedes any and all prior oral agreements or understandings between the parties unless otherwise provided herein, and that in executing this Agreement, neither party is relying on any statement or representation made by the other party concerning the subject matter, basis or effect of this Agreement other than as set forth herein, and that each party is relying solely on its own judgment and knowledge. This Agreement may not be amended except by an instrument in writing signed by both parties.

**8.12 Counterparts.** This Agreement may be executed in counterparts, which when taken together, shall constitute a single signed original as though all parties had executed the same page.

*[remainder of page intentionally blank]*

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego pursuant to San Diego Resolution No. R-\_\_\_\_\_ authorizing such execution, and the Stakeholders acting by and through their authorized officers.

SAN DIEGO COASTKEEPER

By:\_\_\_\_\_

Name:\_\_\_\_\_

Date:\_\_\_\_\_

SAN DIEGO AUDUBON SOCIETY

By:\_\_\_\_\_

Name:\_\_\_\_\_

Date:\_\_\_\_\_

SURFRIDER FOUNDATION  
SAN DIEGO COUNTY CHAPTER

By:\_\_\_\_\_

Name:\_\_\_\_\_

Date:\_\_\_\_\_

THE CITY OF SAN DIEGO

By:\_\_\_\_\_

Name:\_\_\_\_\_

Date:\_\_\_\_\_

COASTAL ENVIRONMENTAL RIGHTS  
FOUNDATION

By:\_\_\_\_\_

Name:\_\_\_\_\_

Date:\_\_\_\_\_

I HEREBY APPROVE the form and legality  
of the foregoing agreement this \_\_\_\_\_ day  
of \_\_\_\_\_, 2014.

JAN I. GOLDSMITH, City Attorney

By:\_\_\_\_\_  
Deputy City Attorney

**EXHIBIT A**

**OCEAN POLLUTION REDUCTION ACT II**

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Ocean Pollution Reduction Act II.”

**SECTION 2. FINDINGS AND POLICY**

In 1972, Congress passed the Federal Water Pollution Control Act Amendments, which required Publicly Owned Treatment Works to achieve secondary treatment capability by 1977.

In 1994, the Federal District Court for the Southern District of California determined that upgrading the City of San Diego's Point Loma Wastewater Treatment Plant to secondary treatment level would not be in the public interest, being excessively costly without producing additional environmental benefits.

The Point Loma Plant currently meets all the requirements of secondary treatment except for the removal of total suspended solids and biological oxygen demand.

At the direction of Congress, the Environmental Protection Agency (EPA) requested that the National Research Council advise the agency on ways to improve wastewater management in coastal urban areas. The resulting study, “*Managing Wastewater in Coastal Urban Areas*,” produced several important findings, including:

- Biological oxygen demand discharged thru a well-designed outfall is generally of no ecological concern in open coastal waters.
- Total suspended solids can be adequately controlled by advanced primary treatment and high dilution outfalls.
- Over-control is particularly likely along ocean coasts, but nevertheless full secondary treatment is required regardless of cost or lack of benefits.

Past reviews by the City, the EPA, the State of California, and scientists affiliated with the Scripps Institution of Oceanography and the University of California at San Diego, as well as other organizations have concluded the Point Loma Plant does not have a significant adverse impact on the ocean environment.

The ocean outfall for the Point Loma Plant discharges effluent 4.5 miles from the coast at a depth of over 300 feet, one of the longest and deepest in the world.

Implementing full secondary treatment at the Point Loma Plant will cost approximately \$2.1 billion.



Implementing full secondary treatment is contrary to the national interest, in that it will compromise views from the Cabrillo National Monument and interfere with the Navy's use of adjacent property.

The City generates all the energy it needs to operate the Point Loma Plant onsite through co-generation. Implementing full secondary treatment will turn a "green" facility into one of the region's largest energy consumers, requiring the purchase of over \$17 million each year in electricity and producing more than 100,000 tons of greenhouse gas emissions annually.

Implementing full secondary treatment at the Point Loma Plant will require removal of 1,250,000 tons of earth from environmentally sensitive habitat immediately adjacent to the Point Loma Ecological Reserve.

Recognizing the unique situation surrounding the Point Loma Plant, Congress adopted the Ocean Pollution Reduction Act of 1994 (OPRA). OPRA allowed the Point Loma Plant to avoid conversion to full secondary treatment and instead operate under a modified permit according to standards contained in OPRA and section 301(h) of the Clean Water Act.

The City has complied with all requirements of OPRA and the results have been significant, including reduction in the discharge of total suspended solids and biological oxygen demand, advanced ocean monitoring, and construction of 45 million gallons per day of reclaimed water capacity at a cost of approximately \$340 million.

Successor legislation to OPRA will capitalize on the record of improvements initiated under OPRA and provide a framework for further enhancements to the City's water and wastewater systems, increased potable water reliability, and additional meaningful environmental protection.

The City has completed its Water Purification Demonstration Project showing that municipal wastewater can successfully be treated to levels suitable for potable reuse. The City completed its Recycled Water Study in 2012 describing how wastewater can be diverted from the Point Loma Plant to new treatment facilities to generate water suitable for potable reuse. Through the construction and operation of new treatment facilities, the City can reduce the total suspended solids discharged by the Point Loma Plant to the same or lower levels as would be achieved by implementing full secondary treatment, while creating an important new local source of water.

The City currently relies on imported water for over 85% of its water supply. A new local source of water can significantly reduce the environmental impacts of importing water to San Diego from the Colorado River and the California Bay-Delta by offsetting the City's demand for imported water.

Due to severe drought in California, the 2014 water allocation from the State Water Project is only 5% of normal, forcing water agencies to draw down water reserves, implement mandatory conservation measures, and search for new, dependable sources of water.

### SECTION 3. SAN DIEGO SECONDARY TREATMENT EQUIVALENCY.

Section 301(j)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1311(j)(5)) is amended to read as follows:

#### (5) SAN DIEGO SECONDARY TREATMENT EQUIVALENCY.

(A) IN GENERAL. Notwithstanding anything to the contrary in the Federal Water Pollution Control Act or the Coastal Zone Management Act, an application for the Point Loma Wastewater Treatment Plant shall be reviewed and processed as the equivalent of an application for a secondary treatment discharge pursuant to subsection (b)(1)(B) and section 402 of the Federal Water Pollution Control Act, provided that the application includes a commitment to:

- (i) maintain a deep ocean outfall from the Point Loma Wastewater Treatment Plant with a discharge depth of no less than 300 feet.
- (ii) discharge no more than 12,000 metric tons of total suspended solids per year commencing on December 31, 2015, no more than 11,500 metric tons of total suspended solids per year commencing on December 31, 2025, and no more than 9,942 metric tons of total suspended solids per year commencing on December 31, 2027.
- (iii) discharge no more than a concentration of 60 milligrams per liter of total suspended solids calculated as a thirty day average.
- (iv) remove no less than 80% of total suspended solids on a monthly average, and no less than 58% of biological oxygen demand on an annual average, from wastewater flow tributary to the Point Loma Plant. Wastewater flow is tributary to the Point Loma Plant if it is discharged into the applicant's wastewater system, or into any wastewater system connected to the applicant's wastewater system, excluding wastewater flow treated and discharged from facilities separately permitted under section 402.
- (v) meet all other effluent limitations of secondary treatment, as defined by the Administrator pursuant to section 304(d)(1), except for any effluent concentration limits for biological oxygen demand.
- (vi) comply with federal anti-degradation policy as determined by the Administrator.
- (vii) perform ocean monitoring that meets or exceeds the Administrator's requirements for section 301(h) dischargers.

(B) POTABLE REUSE. To be eligible to submit an application under this paragraph, the applicant must demonstrate to the satisfaction of the Administrator that to the extent potable reuse is permitted by federal and state regulatory agencies, at least 83 million gallons per day of water suitable for potable reuse on an annual average will be produced by December 31, 2035, from wastewater in the applicant's wastewater system and wastewater systems connected to the applicant's wastewater system as of the date of this Act. The Administrator shall determine development milestones necessary to ensure compliance with this paragraph and include said milestones as conditions in each permit issued prior to December 31, 2035.

(C) PREVIOUS OCEAN MONITORING DATA. The applicant must demonstrate to the satisfaction of the Administrator that the applicant has performed monitoring that meets or exceeds the requirements for section 301(h) dischargers for at least the last 10 years.

(D) PENDING APPLICATIONS. Any application for the Point Loma Wastewater Treatment Plant pending on the effective date of this Act shall be reviewed and processed under this paragraph.

(E) SECONDARY TREATMENT. Nothing in this Act shall prevent the applicant from submitting an application for the Point Loma Wastewater Treatment Plant that complies with secondary treatment pursuant to subsection (b)(1)(B) and section 402

## EXHIBIT B

### Pure Water San Diego Project Deadlines and Milestones

Environmental Review		
Task	Deadline	Milestone
Issue Notice of Preparation of Program EIR		January 31, 2015
Publish draft Program EIR for public review		January 31, 2017
Certify Final Program EIR	January 31, 2018	

North City Projects		
Task	Deadline	Milestone
Issue NTP for pre-design of pipeline to San Vincente Reservoir		July 31, 2014
Issue NTP for pre-design of a 15 mgd potable reuse facility		July 31, 2015
Issue NTP for full design of pipeline to San Vincente Reservoir		January 31, 2017
Issue NTP for full design of a 15 mgd potable reuse facility		May 31, 2017
Advertise for bids to construct pipeline to San Vincente Reservoir		October 31, 2019
Advertise for bids to construct a 15 mgd potable reuse facility		January 31, 2020
Issue NTP to construct pipeline to San Vincente Reservoir		October 31, 2020
Issue NTP to construct a 15 mgd potable reuse facility		January 31, 2021
Complete construction of pipeline to San Vincente Reservoir	June 30, 2023	
Complete construction of a 15 mgd potable reuse facility	June 30, 2023	
Produce a total of at least 15 mgd of potable reuse	December 31, 2023	

South Bay* Projects		
Task	Deadline	Milestone
Issue NTPs for pre-design of a potable reuse facility and pipelines		September 30, 2018
Issue NTPs for full design of a potable reuse facility and pipelines		September 30, 2020
Issue NTPs to construct a potable reuse facility and pipelines		September 30, 2024
Complete construction of a potable reuse facility and pipelines	June 30, 2027	
Produce a cumulative total of at least 30 mgd of potable reuse**	December 31, 2027	

Harbor Drive* Projects		
Task	Deadline	Milestone
Complete real property appraisal of Harbor Drive site		June 30, 2015
Complete acquisition of Harbor Drive site		December 31, 2019
Issue NTPs for pre-design of a potable reuse facility and pipelines		June 30, 2025
Issue NTPs for full design of a potable reuse facility and pipelines		June 30, 2027
Issue NTPs to construct a potable reuse facility and pipelines		June 30, 2031
Complete construction of a potable reuse facility and pipelines	June 30, 2035	
Produce a cumulative total of at least 83 mgd of potable reuse**	December 31, 2035	

\* actual location of projects subject to change in accordance with changes to the Pure Water CIP plan.

\*\* cumulative totals of potable reuse include projects that may be implemented by the participating agencies signatory to the 1998 Metro Agreement (Doc. # OO-18517).





## **Equinox Center Endorses City of San Diego's Pure Water Project**

*Pure Water San Diego will be environmentally and economically beneficial to the City of San Diego*

**SAN DIEGO (September 22, 2014)**---[Equinox Center's](#) Board of Directors has unanimously voted to endorse the City of San Diego's Pure Water Project.

"The Pure Water San Diego Project will positively impact our environment, our economy and our communities," said Ray Ellis, Equinox Center's Board Chair. "Equinox is in complete agreement that this plan is one of the most beneficial solutions to the City's long-term water supply needs."

Pure Water San Diego is a 20-year plan that will create a safe and reliable water supply by recycling what is here already.

According to the City of San Diego's Public Utilities Department, Pure Water San Diego will provide a safe and more secure water future thanks to local water control, is more economical, and provides environmental benefits. When fully implemented, demand projections show Pure Water San Diego can provide a third of the City's water supply by 2050.

The City of San Diego currently relies on the Colorado River and the Bay Delta for 85 percent of its water supply. This is problematic in many ways, including the fact that it puts San Diego at an environmental and economic disadvantage.

In the last decade, the cost of importing water has more than doubled, and imported water costs are expected to continue to increase. Conversely, the City of San Diego estimates Pure Water San Diego is expected to save hundreds of millions of dollars by 2035 if San Diego can locally purify water, rather than relying on the ever-increasing cost of importing from Northern California and the Colorado River.

Pure Water San Diego includes the implementation of a full-scale water purification plant and continued water conservation efforts, creating a constant, reliable water source and minimizing the amount of highly-treated wastewater entering the Pacific Ocean.

"This is important work the City is doing, and what's most impressive about it is the positive impact it will have on our region's quality of life," said Stephen Heverly, Equinox Center's Managing Director. "Creating a safe, reliable, sustainable and locally-controlled water supply will help position our region for future success on several fronts."

**Contact:** Tony Manolatos | 619.549.0137 | [amanolatos@gmail.com](mailto:amanolatos@gmail.com)

**About Equinox Center:** Equinox is a nonprofit, non-partisan, independent regional research group that advances innovative solutions to balance regional growth with our finite natural resources. Our mission is to ensure a healthy environment, strong economy and civic engagement for the San Diego region. Equinox Center turns research into action to help the San Diego region achieve a more prosperous economy, healthy environment and outstanding quality of life for all its residents as it grows. To learn more, visit [www.equinoxcenter.org](http://www.equinoxcenter.org). Connect with [Equinox Center on Facebook](#) and follow us on Twitter [@equinoxcenter](#).



402 West Broadway, Suite 1000  
San Diego, CA 92101-3585  
p: 619.544.1300

[www.sdchamber.org](http://www.sdchamber.org)

September 24, 2014

Ann Sasaki  
Assistant Director of Public Utilities  
Pure Water San Diego Program  
City of San Diego  
9192 Topaz Way  
San Diego, CA 92123

Dear Ms. Sasaki:

On behalf of the San Diego Regional Chamber of Commerce (Chamber), I am writing to express our support for the Pure Water San Diego program, which will provide San Diego with a safe, sustainable local supply of drought-proof drinking water and help eliminate the Point Loma Wastewater Treatment Plant's need for a modified permit.

With nearly 3,000 members representing 400,000 employees, the Chamber is actively involved in local government, regional economic development and providing valuable resources to its members. Through participating in the Mayor's Pure Water Working Group, the Chamber has had the opportunity to learn the science of Pure Water San Diego and understands that purified water will meet federal and state drinking water standards. Accordingly, on August 28, 2014, the Chamber's Board of Directors voted to support the Pure Water San Diego program in concept. Further, during the Chamber's annual delegation trip to Washington, D.C. in September, we hosted a Water Roundtable to discuss advantages of the Pure Water San Diego program with federal, state and local representatives.

Pure Water San Diego presents a long-term solution to the City's water needs, while also providing region-wide benefits. Pure Water San Diego will give San Diego enhanced control of its water supply, thereby reducing independence on imported water. It will also help reduce ocean pollution and save ratepayers billions in upgrades to the Point Loma Wastewater Treatment Plant.

For the reasons stated above, the Chamber urges you to support the Pure Water San Diego Program. If you have any questions, please do not hesitate to contact Chanelle Hawken, Executive Director of Public Policy, at (619) 544-1365 or [chawken@sdchamber.org](mailto:chawken@sdchamber.org).

Sincerely,

A handwritten signature in blue ink, appearing to read 'JS' or 'Jerry Sanders'.

Jerry Sanders  
President & CEO  
San Diego Regional Chamber of Commerce

CC: Honorable Kevin Faulconer  
Honorable Members of the City Council



September 25, 2014

Ann Sasaki  
Assistant Director of Public Utilities  
Pure Water San Diego Program  
City of San Diego  
9192 Topaz Way  
San Diego, CA 92123

Dear Ms. Sasaki:

The Industrial Environmental Association (IEA) of San Diego supports the Pure Water San Diego program that will provide San Diego with a safe, sustainable local supply of drought-proof drinking water and help to permanently resolve the Point Loma Wastewater Treatment Plant's need for a modified permit. We have had the opportunity to learn about the science of Pure Water San Diego, so we understand that purified water will meet all federal and state drinking water standards.

IEA believes Pure Water San Diego is an excellent long-term solution for addressing the City's water needs while also providing region-wide benefits. Pure Water San Diego will give us more control over our water supply, making us less dependent on imported water. As an added benefit, it helps reduce ocean pollution and save ratepayers expensive upgrades to the Point Loma Wastewater Treatment Plant.

Thank you for continuing to move forward and pursue a viable new water supply for San Diego. Please add our name to the list of agencies, organizations and individuals taking action to ensure the reliability of our economy and the health and safety of our citizens through pro-active water resource planning.

Sincerely,

Jack Monger  
Executive Director



September 26, 2014

Ann Sasaki  
Assistant Director of Public Utilities  
Pure Water San Diego Program  
City of San Diego  
9192 Topaz Way  
San Diego, CA 92123

Dear Ms. Sasaki:

The San Diego County Apartment Association (SDCAA) supports the Pure Water San Diego program that will provide San Diego with a safe, sustainable local supply of drought-proof drinking water and help to permanently resolve the Point Loma Wastewater Treatment Plant's need for a modified permit. We have had the opportunity to learn about the science of Pure Water San Diego, so we understand that purified water will meet all federal and state drinking water standards.

SDCAA believes that Pure Water San Diego is an excellent long-term solution for addressing the City's water needs while also providing region-wide benefits. Pure Water San Diego will give us more control over our water supply, making us less dependent on imported water. As an added benefit, it helps reduce ocean pollution and save ratepayers expensive upgrades to the Point Loma Wastewater Treatment Plant.

Thank you for continuing to move forward and pursue a viable new water supply for San Diego. Please add our name to the list of agencies, organizations and individuals taking action to ensure the reliability of our economy and the health and safety of our citizens through pro-active water resource planning.

Sincerely,

  
Alan Pentico  
Executive Director



September 29, 2014

Ann Sasaki  
Assistant Director of Public Utilities  
Pure Water San Diego Program  
City of San Diego  
9192 Topaz Way  
San Diego, CA 92123

Dear Ms. Sasaki:

As a leading voice for tech start-up and emerging companies in San Diego's Innovation Economy, CONNECT would like to voice our support for the Pure Water San Diego program that will provide San Diego with a safe, sustainable local supply of drought-proof drinking water and help to permanently resolve the Point Loma Wastewater Treatment Plant's need for a modified permit. We have had the opportunity to learn about the science of Pure Water San Diego, so we understand that purified water will meet all federal and state drinking water standards.

San Diego needs to have a reliable and secure water supply which is paramount if new companies are to continue to choose San Diego as the place to start &/or grow their businesses. CONNECT believes Pure Water San Diego is an innovative approach and an excellent long-term solution for addressing the City's water needs while also providing region-wide benefits. Pure Water San Diego will give us more control over our water supply, making us less dependent on imported water. As an added benefit, it helps reduce ocean pollution and save ratepayers expensive upgrades to the Point Loma Wastewater Treatment Plant.

Thank you for continuing to move forward and pursue a viable new water supply for San Diego. Please add our name to the list of agencies, organizations and individuals taking action to ensure the reliability of our economy and the health and safety of our citizens through pro-active water resource planning.

Sincerely,

A handwritten signature in blue ink, appearing to read "Greg McKee".

Greg McKee  
CEO  
CONNECT



September 29, 2014

Ann Sasaki  
Assistant Director of Public Utilities  
Pure Water San Diego Program  
City of San Diego  
9192 Topaz Way  
San Diego, CA 92123

Dear Ms. Sasaki:

The San Diego Chapter of WateReuse supports the Pure Water San Diego program that will provide San Diego with a safe, sustainable local supply of drought-proof drinking water. Our organization understands the science of Pure Water San Diego, and recognizes that purified water will meet all federal and state drinking water standards.

Our organization believes Pure Water San Diego is an excellent long-term solution for addressing the City's water needs while also providing region-wide benefits. Pure Water San Diego will give our region more local control over our water supply, making us less dependent on imported water.

Thank you for continuing to move forward and pursue a viable new water supply for San Diego. Please add our name to the list of agencies, organizations and individuals taking action to ensure the reliability of our economy and the health and safety of our citizens through pro-active water resource planning.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jack Bebee".

Jack Bebee  
President  
WateReuse – San Diego Chapter



## Surfrider Foundation San Diego County Chapter

9883 Pacific Heights Blvd, Suite D  
San Diego, CA 92121  
Phone: (858) 622-9661 Fax: (858) 622-9961

*Dedicated to the protection and enjoyment of our oceans, waves and beaches.*

September 30, 2014

Ann Sasaki  
Assistant Director of Public Utilities  
Pure Water San Diego Program  
City of San Diego  
9192 Topaz Way  
San Diego, CA 92123

Dear Ms. Sasaki:

Surfrider Foundation San Diego County Chapter supports the Pure Water San Diego program that will provide San Diego with a safe, sustainable local supply of drought-proof drinking water and help to permanently resolve the Point Loma Wastewater Treatment Plant's need for a modified permit. We have had the opportunity to learn about the science of Pure Water San Diego, so we understand that purified water will meet all federal and state drinking water standards.

Our chapter believes Pure Water San Diego is an excellent long-term solution for addressing the City's water needs while also providing region-wide benefits. Pure Water San Diego will give us more control over our water supply, making us less dependent on imported water. As an added benefit, it helps reduce ocean pollution by reducing the amount of wastewater being sent to the Point Loma Wastewater Treatment Plant.

Thank you for continuing to move forward and pursue a viable new water supply for San Diego. Please add our name to the list of agencies, organizations and individuals taking action to ensure the reliability of our economy and the health and safety of our citizens through pro-active water resource planning.

Sincerely,

*Roger Kube*

Roger Kube  
Chair  
Surfrider Foundation  
San Diego County Chapter

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*The Surfrider Foundation is a non-profit grassroots organization dedicated to the protection and enjoyment of our world's oceans, waves and beaches through a powerful activist network. Founded in 1984 by a handful of visionary surfers in Malibu, California, the Surfrider Foundation now maintains over 250,000 supporters, activists and members worldwide. For an overview of the Surfrider Foundation San Diego Chapter's current campaigns, programs and initiatives go to [www.surfridersd.org](http://www.surfridersd.org) or contact us at [info@surfridersd.org](mailto:info@surfridersd.org) or (858) 622-9661.*

October 1, 2014

Ann Sasaki  
Assistant Director of Public Utilities  
Pure Water San Diego Program  
City of San Diego  
9192 Topaz Way  
San Diego, CA 92123

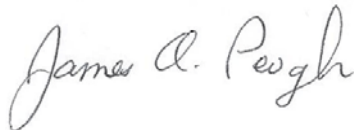
Dear Ms. Sasaki:

The San Diego Audubon Society supports the Pure Water San Diego program that will provide San Diego with a safe, sustainable, local supply of drought-resistant drinking water and help to permanently resolve the Point Loma Wastewater Treatment Plant's need for a modified permit.

We especially appreciate the environmental benefits of the Pure Water program over other measures that might be used to help provide a reliable source of water for our region. The Pure Water Program will not require a substantial expansion of the Point Loma Wastewater Treatment Plant and expansion into the sensitive and unique coastal habitats of that area. It will result in less discharge of Green House Gas than importing more water from distant areas or desalinization of sea water. It will not result in the discharge of hyper-saline treatment brine into the Ocean, and will result in a step-by-step decrease in the discharge of total suspended solids from our ocean outfall. It will not result in the loss of marine life through impingement and entrainment. It will not required the construction of more dams and will hopefully help to allow more water to remain in sensitive waterways like the Bay Delta, the Salton Sea, the Colorado River, and the degraded wetlands at its mouth. .

Pure Water San Diego is the best available long-term solution for addressing the City's water needs in an environmentally appropriate and cost effective way. We greatly appreciate the City's progress so far and its aggressive plan to move forward. Please add San Diego Audubon Society to the list of agencies, organizations and individuals who actively support this program.

Sincerely,



James A. Peugh  
Conservation Committee Chair  
San Diego Audubon Society





**Connect.  
Create.  
Conserve.**

October 2, 2014

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Take Pride in America  
National Award for  
Outstanding Partner and  
the 2012 Keep America  
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The San Diego River Park  
Foundation is a 501(c)(3)  
charitable organization.  
EIN 01-0565671

4891 Pacific Hwy, Ste 114  
San Diego, CA 92110

(619) 297-7380

Ms. Ann Sasaki  
Assistant Director of Public Utilities  
Pure Water San Diego Program  
City of San Diego  
9192 Topaz Way  
San Diego, CA 92123

Dear Ms. Sasaki:

The San Diego River Park Foundation is pleased to support the Pure Water San Diego program. We believe it will provide San Diego with a safe, sustainable local supply of droughtproof drinking water. It also can be part of the solution to addressing the permitting issues for the Point Loma Wastewater Treatment Plant.

The San Diego River Park Foundation believes Pure Water San Diego is an excellent long-term solution for addressing the City's water needs. Pure Water San Diego will give us more control over our water supply, making us less dependent on imported water.

The San Diego River Park Foundation has been active for many years in supporting the City's efforts to find long-term solutions for our region's water supply challenges. We believe the science supports this program, and there are sufficient safeguards to protect the public's health and welfare.

With this letter we reconfirm our support for the Pure Water San Diego program. We are pleased to join with others who are taking action to ensure the reliability of our economy and the health and safety of our citizens through pro-active water resource planning.

Sincerely,

Rob Hutsel  
Executive Director



Halla Razak  
Director of Public Utilities  
City of San Diego  
9192 Topaz Way  
San Diego, CA 92123

Dear Ms. Razak:

On October 2<sup>nd</sup>, the San Diego Business Leadership Alliance (BLA) voted to support the City of San Diego's "Pure Water San Diego" program. Our membership is comprised of over fifty business advocacy organizations from throughout San Diego County. As supporters of business development, economic growth and the creation of new job opportunities for our region, BLA understands that water is the lifeblood of our economy and a relatively scarce commodity in Southern California. Your City's Pure Water program will help diversify and expand our available water resources, providing San Diego with a sustainable local supply of drought-proof drinking. In addition, the off-loading of sewage wastewater from the Point Loma Wastewater Treatment Plant as a result of implementation of the Pure Water program will have the added advantage of helping to permanently resolve the need for a modified federal permit for that facility.

Our Member Organizations recognize that Pure Water San Diego is an excellent long-term solution for addressing the City's water needs while also providing region-wide benefits. We understand that purified water will meet all federal and state drinking water standards and that Pure Water San Diego will give us more control over our water supply, making us less dependent on imported water. As an added benefit, it will help reduce ocean pollution and save ratepayers expensive upgrades to the Point Loma Wastewater Treatment Plant.

Thank you for continuing to move forward and pursue a viable new water supply for San Diego. Please add our name to the list of agencies, organizations and individuals taking action to ensure the reliability of our economy and the health and safety of our citizens through pro-active water resource planning.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Madigan". The signature is fluid and elegant, with a large initial "L" and "M".

Laurie Madigan  
Executive Director  
San Diego Business Leadership Alliance



San Diego  
Regional  
Economic  
Development  
Corporation

October 3, 2014

Ann Sasaki  
Assistant Director of Public Utilities  
Pure Water San Diego Program  
City of San Diego  
9192 Topaz Way  
San Diego, CA 92123

Dear Ms. Sasaki:

As a 501(c)(6) non-profit organization whose mission is to maximize the San Diego region's economic prosperity and global competitiveness, San Diego Regional Economic Development Corporation (EDC) strongly supports the Pure Water San Diego program.

The program will provide San Diego with a safe, sustainable local supply of drought-proof drinking water and help to permanently resolve the Point Loma Wastewater Treatment Plant's need for a modified permit. We have had the opportunity to learn about the science of Pure Water San Diego, so we understand that purified water will meet all federal and state drinking water standards.

Our organization believes Pure Water San Diego is an excellent long-term solution for addressing the city's water needs. By enhancing the region's resiliency against drought and ensuring a safe, reliable supply, we can support businesses in the region's key industries as they continue to grow and compete globally. Numerous industry clusters will benefit greatly from this effort, most notably our life sciences sector, which will have access to a water supply supporting its \$14.2 billion direct economic impact and sustaining more than 34,000 jobs per year. A safe and affordable water supply will continue to make the region competitive with regions around the globe and ensure our economic prosperity long into the future.

We thank you for your efforts in pursuing a viable new water supply for San Diego. Please add our name to the list of agencies, organizations and individuals taking action to ensure the reliability of our economy and the health and safety of our citizens through pro-active water resource planning.

Thank you for your time.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Mark Cafferty', written over a horizontal line.

Mark Cafferty  
President and CEO

530 B Street  
Seventh Floor  
San Diego  
CA 92101

Ph: 619.234.8484  
Fax: 619.234.1935

[www.sandiegobusiness.org](http://www.sandiegobusiness.org)