Attachment 12

<u>Transcript of San Francisco Bay Regional Water Quality Control Board Hearing on September 11, 2019</u>

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13	State of California, San Francisco Bay Regional
14	Water Quality Control Board Hearing on
15	September 11, 2019
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1	JAMES MCGRATH: All right. With that,
2	I think we have time to at least start the San
3	Francisco PUC matter.
4	MICHAEL MONTGOMERY: Yeah, thank you.
5	I'd like to invite up Jessica Watkins. She's the
6	Senior Supervisor in the NPDS Program that will
7	be giving a presentation on this.
8	WILLIAM KISSENGER: Before we do, I
9	want to recuse myself from participating in the
10	decision. For the record, I'm a lawyer at the
11	law firm of Morgan Lewis & Bockius in San
12	Francisco and I currently am representing San
13	Francisco Public Utilities Commission on matters
14	that are unrelated to the reissuance of the
15	Oceanside permit, but because I work with this
16	discharger, albeit on matters that are unrelated
17	to this particular item, I will recuse myself to
18	avoid any potential appearance of impropriety.
19	JAMES MCGRATH: You know that's going
20	to be upstairs. Okay. We're going to have
21	lunch. Yeah, we'll go up up to the office and
22	I'll meet you up there. Okay.
23	JESSICA WATKINS: I'd like to use the
24	remote. Thank you. That's fine.
25	MICHAEL MONTGOMERY: Yeah, we're ready.
	Dago 2

1	We can start.
2	JESSICA WATKINS: Good afternoon now, I
3	think. I'm Jessica Watkins. I'm still a Senior
4	Engineer in the NPDS Wastewater Enforcement
5	Division. Nothing's changed since this morning.
6	The Order before you today would re-issue the
7	existing NPDS permit for the wastewater
8	facilities in the western portion of San
9	Francisco. The permit would also cover a
10	recycled water project currently under
11	construction at the Wastewater Treatment Plant
12	site and that's expected to produce about 1.6
13	million gallons per day of recycled water. I'll
14	start with some background about San Francisco's
15	wastewater treatment facilities and how we
16	regulate combined sewer systems and then I'm
17	going to end with significant comments that we
18	received during the public comment period and our
19	responses to those comments. So, let's go back a
20	slide, please. And this is an aerial view of San
21	Francisco. The city has two NPDS permits; so,
22	there's one for the western side of the city and
23	that's often referred to as the Westside or the
24	Oceanside and then there's also one for the
25	eastern portion of the city and that's referred

to as the Bayside. And the dividing line between
these two sides of the city is shown in yellow
and that's running from north to south. And we
permit these sides of the city separately because
runoff on the Bayside flows towards the Bay
whereas runoff on the Westside flows towards the
Pacific Ocean. So, today we're just talking
about the Western portion of the city and that's
highlighted in blue. And in the next few months,
we plan to draft a permit for the Bayside for
your consideration. Here's another figure
showing San Francisco's wastewater treatment
plants and major collection system assets and
there is a lot going on here, but we're just
going to focus on the Westside and that's shown
to the left in pink or brown or whatever that
color is. We'll zoom in. San Francisco's
collection system is unique because it's
predominantly a combined sewer system and San
Francisco is one of two cities in California that
has a combined sewer system and the other one is
located in a small portion of Sacramento.
Wastewater and stormwater generally flow towards
the perimeter of the city where the flows are
collected in large box-like structures and are

conveyed to the wastewater treatment plant. The
grey arrows show the general flow direction and
those dark red lines, those are the major
collection system pipelines that collect and
convey the flows to three transport storage
structures shown as the orange and brown
rectangles along the perimeter of the city.
Those are to the left there. The biggest
transport storage structure is the Westside
transport located beneath the Great Highway along
Ocean Beach and that's shown in orange and that
can store and convey about 50 million gallons of
combined wastewater and stormwater to the
treatment plant. And to get an idea of the scale
of this structure, you can try finding where the
five construction workers are located in the
photo. It might be easier for those sitting in
the front, but two of them are shown inside of
that red circle. So, it's a big structure. To
the north we have the 12 million-gallon Richmond
Tunnel and to the south is the 10 million-gallon
Lake Merced Tunnel and those are shown in brown.
These boxes convey flows to the Oceanside Water
Pollution Control Plant shown in yellow in the
bottom left of the screen. The treatment plant

is located on the Great Highway near the zoo and
it's one of only a few plants in the United
States that's built almost entirely underground.
The plant treats about 20% of the city's
wastewater and discharges to the Pacific Ocean
through a deep-water outfall that's more than 3
nautical miles from the shore and we issue this
permit jointly with EPA because the plant
discharges to federal waters that are beyond
State jurisdiction. The State also has
jurisdiction because when rain overwhelms the
capacity of the combined sewer system, combined
wastewater and stormwater is discharged through
seven near shore outfalls. And from the north to
south, we'll take a look at those, so, these
discharges occur at Baker Beach, China Beach,
Mile Rock and two locations on Ocean Beach and
then down at Fort Funston. So, these discharges
occur when the collection system storage capacity
is exceeded and that's about 73 million gallons
in total. So, what is a combined sewer system?
A combined sewer system uses a single set a
single sewer system to collect domestic sewage
and stormwater runoff. And this is different
from separate sewer systems in which the domestic

sewage is conveyed to a treatment plant and one
set of pipes and the stormwater is conveyed to
surface waters using a different set of pipes and
that receives little or no treatment. As shown
in the figure, a combined sewer system also
collects street runoff to the stormwater drains
that can occur during dry weather and this could
include vehicle cleaning wash water, motor oil
dripping from cars and also trash. And the
advantage of a combined sewer system is that
stormwater and dry weather street runoff receive
treatment. However, during major storms, the
combined sewer system may discharge
undisinfected, partially treated wastewater and
stormwater to near shore outfalls and can also
backup into streets, homes and businesses. So,
this figure, in particular, shows an example of
when the collection system capacity is exceeded
and it's discharging to the Pacific Ocean.
Here's a flow diagram of San Francisco's
treatment system. So, moving from left to right,
again, the combined sewer system conveys flows to
the treatment plant and then discharge is treated
effluent to the deep-water outfall in the Pacific
Ocean. The plant typically treats about 11

million gallons per day of domestic sewage and
dry weather street runoff. The plant can also
provide secondary treatment for up to 43 million
gallons per day, which is about four times its
typical dry weather flow. And that means that
during light to moderate rain, the plant provides
full secondary treatment for additional
stormwater flows. During heavier rain, the plant
can provide an additional 22 million gallons per
day of primary only treatment and that's blended
with the secondary treated water before being
discharged and this is similar to what weather
blending at some other treatment plants that you
might recall. In addition to pumping up to 65
million gallons per day over to the plant, the
City can also pump up to 133 million gallons
directly to the deep-water outfall. And these
flows receive equivalent to primary treatment
within the combined sewer system. And we call
that equivalent to primary treatment because the
combined sewer system removes some floatables and
solids and that's similar to the primary
treatment received at a wastewater treatment
plant. And flows exceeding these capacities may
discharge from those seven near shore discharge

points along the western perimeter of the City.
So, these combined sewer discharges also receive
equivalent to primary treatment and they occur
about one to six times per year on average and
that depends on the weather and the exact
location. And San Francisco strives to collect
and treat all the wastewater and stormwater flows
during a three-hour storm that has about 1.3
inches of rain. So, how do we regulate combined
sewer systems? During dry weather, we regulate
these facilities the same way we regulate any
other municipal wastewater treatment plant and
its collection system and that's with numeric
effluent limitations and various narrative
requirements. The majority of the time, the
system operates under these conditions; however,
during wet weather, we take a different approach,
so it's based on the Combined Sewer Overflow
Control Policy. And to be clear, in this
context, wet weather doesn't just mean that it's
raining, and the permit wet weather means that
San Francisco can't provide secondary treatment
for overflows. USCPA adopted the Combined Sewer
Overflow Control Policy in 1994 and that was to
establish a national approach for controlling

combined sewer discharges and overflows and this
policy was later written into the Clean Water
Act. During wet weather, the policy establishes
nine minimum controls as technology-based
requirements and requires implementation of a
long-term control plan to satisfy water quality-
based requirements. The nine minimum controls
are short-term controls that can reduce overflows
and their effects on receiving water quality
without significant engineering studies or major
construction. For example, one minimum control
is the control of solid and floatable materials
and that could include street sweeping or the
installation of simple devices like racks,
baffles, scradents. And street sweeping could
also count as pollution prevention which is
another minimum control. A primary objective of
the long-term control plan is to develop and
evaluate a range of overflow control alternatives
sufficient to meet water quality standards,
including the attainment and protection of
beneficial uses. And this permit would require
the City to update its long-term control plan for
the first time since the City finished

the 1990s and this includes a requirement to
consider options to eliminate, relocate or reduce
the magnitude or frequency of those near shore
discharges. We received numerous comments from
San Francisco and 14 members of the public during
the public comment period. Members of the public
are concerned about the impacts of sewer
overflows from the combined sewer system on homes
and businesses, including manholes that are
dislodged by surcharging. And here are a couple
of photographs to illustrate these issues and
these photos were taken on the Bayside of the
City but are just provided here as context for
the public's comments. The photo on the right
shows about one foot of street flooding and then
the photo on the left shows a geyser of water
coming out of a manhole in the middle of the
street and that's circled in yellow. It's up to
about the height of the buildings nearby, it
looks like. And then, if you look more closely,
you could see that the manhole cover in that red
circle is about one car-length away from the
manhole. The public also supports public
notification requirements and new requirements to
report overflows into the statewide online data

base. We, and USCPA, take these concerns very
seriously and we're discussing potential
solutions with San Francisco. We understand that
we're not going to solve the entirety of this
problem with this permit reissuance, but we have
taken steps to strengthen the existing
requirements. So, for example, the new long-term
control plan update requires the City to ensure
that wet weather operations minimize the
frequency, volume and duration of these
overflows. It also requires the City to submit a
report that characterizes these overflows over
the last 10 years. Now, we're going to look at
some of San Francisco's comments. San Francisco
questions USCPA and Board authority to require
the long-term control plan update and San
Francisco argues that the requirement is contrary
to law and unsupported by facts and prior
findings made by USCPA and the Board. We
disagree, as we explain in our response to San
Francisco's comments. There are several legal
bases for the requirement, including federal
regulations and the combined sewer overflow
control policy. Moreover, the requirements
consistent with USCPA guidance and requirements

imposed in consent decrees and other combined
sewer systems. The response to comments also
lists several facts that highlight the importance
of this requirement. For example, the City
discharges combined wastewater and stormwater
through near shore outfalls and these discharges
are associated with elevated bacterias and
concentrations. Furthermore, not only have the
facilities changed since constructed, with
additional changes planned, recreational use
patterns change too, and we've only begun to
understand the impacts of climate change. For
example, extreme rain events in California are
expected to become more frequent and intense and
sea levels are rising, as we talked about
earlier. The permit retains the long-term
control plan update requirement incorporating
many revisions proposed by San Francisco. Of
note, the revised permit extends several
compliance states. The required update tasks are
detailed and specific while also providing
flexibility for San Francisco to determine the
precise means of compliance. San Francisco also
objects to two of our standard provisions.
First, San Francisco objects to a receiving water

limitation that would prohibit discharges that
cause or contribute to violations of water
quality standards. Second, San Francisco objects
to an existing prohibition against discharges
creating pollution, contamination or nuisance.
San Francisco argues that these requirements are
inconsistent with applicable law and unsupported
by facts. San Francisco is also concerned that
the requirements create uncertainty with respect
to liability. We disagree and we explain this in
our response to San Francisco's comments. We did
not revise the tentative order because the
proposed requirements are consistent with the
Clean Water Act, Combined Sewer Overflow Control
Policy, NPDS regulations, State water quality
standards and State law. Furthermore, the
receiving water limitation and discharge
prohibition serve as backstops in the event that
the effluent limitations and other provisions in
the permit prove to be inadequate. A similar
receiving water limitation appears in nearly all
NPDS permits in the region, including San
Francisco's NPDS permit for the Bayside.
Similarly, the discharge prohibition has also
been in nearly all NPDS permits in the region

1	since at least 1993, including San Francisco's
2	previous permits. When the Board most recently
3	updated the regional standard provisions, it
4	retained this provision. So, as you've seen,
5	it's a complicated facility both physically and
6	from the regulatory perspective. We have worked
7	very closely with USCPA on this and are happy to
8	present the revised tentative Order to the Board
9	for consideration with a couple of minor
10	revisions that are detailed in the supplemental
11	that we passed out. And USCPA is prepared to
12	approve the revised tentative Order when and if
13	the Board approves it. Thanks.
14	JAMES MCGRATH: Are there any questions
15	from the Board of the staff?
16	DR. NEWSHA AJAMI: Can we ask questions
17	about the permit or are we doing that later?
18	JAMES MCGRATH: Well, if you've got
19	questions that would make sense to have asked
20	now, with an opportunity for San Francisco to
21	comment, yes, go ahead and ask those questions
22	now.
23	DR. NEWSHA AJAMI: Okay. I'm actually
24	slightly concerned about the modifications that
25	have been made to the permits, especially the

1	ones that are putting time rather than
2	sunrise/sunset.
3	JAMES MCGRATH: In the supplement?
4	DR. NEWSHA AJAMI: In the supplement.
5	So, I live in the city, people can go to the
6	beach after 4pm. I have taken my kids after 4pm
7	to the beach and I understand there are rainy
8	days and they're wet and obviously not many
9	people go to the beach probably at that day, but
10	I think that I liked what we had before, the
11	whole sunset/sunrise. Also, people surf in these
12	waters way before 8am. Why do we have, like,
13	4pm, 8am? Is this more of a, like, you don't
14	want people to work overtime, so we want to make
15	sure they so, I'll let you answer that
16	question.
17	BILL JOHNSON: This is Bill Johnson.
18	I'm the Chief of the NPDS Wastewater Division.
19	We spent a lot of time thinking about that
20	provision as you can tell in the response to
21	comments. We went one way and then we met with
22	San Francisco a little bit more and went a
23	different way. For San Francisco, one of their
24	concerns is the amount of time it takes to post
25	the beach, so this permit really is to just the

oceanside of their system, but they also have a
southeast system and if there's discharges
happening on the oceanside, there's probably also
discharges happening on the bay side, so the
amount of time it takes them to actually post all
the beaches for the entire city is about two
hours. So, they need some time in order to do
that and for safety reasons, they'd rather not do
it after dark and in some locations, they don't
actually have access like if it's park service
land, they can't actually get to it after dark.
So, we talked to them a little bit about it and
what I finally came to realize myself, is that
these discharges happen primarily during the
wintertime when the days are short, and the
sunset actually happens pretty soon. So, if you
think about 4 o'clock, sunset may be closer to
6pm or 7pm so you're not actually so if
discharge happens after 4, they may or may not
get the full two hours to do it. In fact, we
were thinking, in fact, that this may give them
even less time, but it gives them the certainty
in terms of the time, it's just easier for them
to know what the expectation is and to know what
our and in terms of enforcement, it's easier

1	to say, "Hey, it was 4 o'clock" or it wasn't.
2	And so, the next day, in terms of the 8 o'clock
3	time frame, again, how late does it take the sun
4	to come up in the morning during the wintertime
5	and so, at times, it could be, not that much
6	sooner than 8 o'clock, it would be, like, 7, so
7	it's not necessarily giving them the full two
8	hours either.
9	DR. NEWSHA AJAMI: But does this mean
10	that they can't so, okay, so there are two
11	things: one is, physically going and posting
12	every one of these locations; the other one is
13	having on-line warnings or sending tweets to
14	people that they don't go do this. I wonder if
15	there's a way to differentiate between an online
16	outreach before, like right after they start
17	releasing rather than and then saying, okay,
18	so then posting on the beach so, I assume if
19	somebody is a savvy surfer, they might already
20	know this is happening so they may check earlier.
21	So, is there a way we can differentiate between
22	how they are posting? Can it be differentiated
23	between the physical posting and also virtual
24	posting, online posting?
25	BILL JOHNSON: The short answer is yes

1	and if you give me a second, while maybe when
2	you break for lunch, I can take a look at that
3	and see if there's something we can do. It also
4	might be worth asking San Francisco, since
5	they've got a number of representatives here and
6	maybe they can tell you exactly what their
7	typical practice is for those two different kinds
8	of notifications. The ones the actual signs on
9	the beaches versus those technology ones, which
10	should be a lot faster. Did you have anything
11	you wanted to add or not?
12	JESSICA WATKINS: We have the
13	electronic notification separately from the
14	warning signs, under (d) on page 18. So, they're
15	separated out, so (d) is: "The discharger shall
16	provide electronic notification"
17	DR. NEWSHA AJAMI: Can you tell me
18	which page you are looking?
19	JESSICA WATKINS: Page 18.
20	DR. NEWSHA AJAMI: Page 18. Okay.
21	BILL JOHNSON: Does it give a time? It
22	doesn't give a timeframe?
23	JESSICA WATKINS: There's no timeframe
24	for that, but Amy's right here. I don't know if
25	you'd like to say anything.
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1	AMY CHASTAIN: I can.
2	DR. NEWSHA AJAMI: Yeah, I mean, it
3	would be good to have timing for that, at least.
4	And I would say they should actually post right
5	after they start releasing. Why wouldn't they?
6	BILL JOHNSON: Right. Right. And I am
7	going to put words into San Francisco's mouth,
8	but I don't think that they would necessarily
9	object to doing it as soon as they can. It might
10	take them a little while, but maybe we can have a
11	conversation with them and find out what kind of
12	timeframe is workable.
13	JAMES MCGRATH: Other questions about
14	the staff presentation? I did have one. There's
15	testimony that we've received about concerns
16	about flooding and backup. Since the City has
17	two different systems, I want to make sure that
18	we know the location of the comments and whether
19	or not they're on the Westside or on the Bayside.
20	There are specific incidents that they refer to
21	and I want to make sure that we know whether or
22	not it's on the area covered by this permit or
23	the area covered by the Bayside permit.
24	JESSICA WATKINS: Yeah, I think that
25	the issues that the public brings up may be more

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1	representative of what's happening on the
2	Bayside, but there are flooding areas of
3	flooding
4	JAMES MCGRATH: It does happen on this
5	side, as well.
6	JESSICA WATKINS: Yeah, so if you look
7	at San Francisco's flood planning documentation
8	that's available online, you could see that
9	they're planning or I don't know what the
10	stages of the planning are, but, they're aware of
11	areas like 15 th and Wobona and I think San
12	Francisco could give more details, but there are
13	at least two or three locations on the Oceanside.
14	JAMES MCGRATH: Okay. Any other
15	questions? So, let's turn to San Francisco. If
16	they can if we can, kind of, hold together and
17	get to their presentations, then we'll look at
18	breaking for lunch. I see Amy, you've got it all
19	organized?
20	AMY CHASTAIN: (indiscernible)
21	JAMES MCGRATH: I have cards from you,
22	Amy Chastain, Greg Norby, and I know the guy that
23	used to work here too, Michael Carlin, so however
24	you want to present it, come on up.
25	AMY CHASTAIN: Thanks. Well, good
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1	afternoon. Let me be the first to say good
2	afternoon to you Board members. My name is Amy
3	Chastain. I'm a manager with the Wastewater
4	Enterprise of the San Francisco Public Utilities
5	Commission and I think that I just want to
6	point out who we do have here. We have our
7	Deputy General Manager, Michael Carlin, who
8	submitted a card; we have our Assistant General
9	Manager who is the head of wastewater, Greg
10	Norby, who is here; and we also have
11	representatives from the City Attorney's office,
12	John Roddy and Estee I'm sorry Estee, I don't
13	know how to pronounce your last name so, I
14	want to good, I was curious about that. I
15	promise to not take more than 10 minutes, but I'd
16	be really pleased if I could have a little bit
17	beyond the standard three-minute comment time
18	frame. Part of the reason is, I believe that,
19	unless I miss something, which hopefully I won't
20	since all my bosses are in front of me, Greg and
21	Michael will not be speaking today and hopefully
22	I'll be able to answer all your questions. So, I
23	have three issues that I wanted to discuss today
24	and share with you and I'm going to dispense with
25	the very straightforward one first. And that is,

1	if you turn to I forget, I had the page number
2	on my permit, but if you look at the shoreline
3	and Newsha, this is actually touching on some of
4	your concerns, so I'll try to address your
5	questions at the same time I address those. So,
6	Tables E-11 and E-12 of the permit require
7	they specify the shoreline monitoring
8	requirements for San Francisco. So, we sample,
9	and have for decades, the shorelines weekly and
10	then after every combined sewer discharge and
11	then we also follow standard protocols which are
12	sampled daily until elevated bacteria levels are
13	below an appropriate threshold. So, the issue
14	with that is if you look at the three indicator
15	bacteria and, you know, I like talking to this
16	Board because we have so many technical geeks on
17	it that I can see fecal indicator bacteria and
18	you know what I'm talking about. It's not always
19	true. So, the three fecal indicator bacterias
20	specified for shoreline monitoring, enterococcus,
21	fecal coliform and total coliforms. So, our
22	current permit does not require fecal coliform
23	analysis to be performed.
24	TOM: (indiscernible) because I think
25	the Board members on Page E-16.

1	JAMES MCGRATH: I just found it.
2	AMY CHASTAIN: You got it? Thanks Tom.
3	TOM: You're getting a little bit ahead
4	of him.
5	AMY CHASTAIN: So, our current permit,
6	which has been in place for more than a decade at
7	this point, does not require fecal coliform, it
8	requires e-coli. Again, these are all indicator
9	bacteria. So currently, our laboratory is not e-
10	lab certified, which is the certification process
11	they need to go through to be able to do certain
12	laboratory analyses that we submit for client
13	compliance purposes. This is required by a
14	permit and needs to be the analyses need to be
15	performed by an e-lab certified lab. Our lab is
16	not currently certified for fecal coliform, but
17	we are initiating that process so that we can
18	become certified. So, our request here, which is
19	not in our comments, is that we be allowed to
20	analyze our samples for enterococcus and total
21	coliform in the interim until we become
22	certified. So, that's the easy part. And
23	Newsha, to answer your question and to provide
24	context for the rest of the Board, so there are
25	multiple mechanisms to notify the public of when

there are combined sewer overflows and some of
you know that I used to, but now that I moved to
East Bay, I don't anymore, swim for the Southend,
and so I'm definitely, you know, vested in and
care about our water quality. So, there's the
physical posting and that is the most time
intensive. It's literally going around all the
city. All of those signage locations are not
owned by the City and County in San Francisco.
It's actually mostly federal government, if you
think about it and some state parks. We do have
concerns about safety at some of these locations
and posting at night and access, as, I think,
your staff eluded or they didn't elude to,
they were very articulate about it. So, that's
one piece. The other part is, we do have a
website that has an interactive map that sounds
like it looks like Newsha's seen that. That's
updated in the office through for you geeks,
through our laboratory information management
system prior to the physical posting. Ditto with
the email that goes out. There's an email to a
group of folks and then there's also a hotline.
And we are in the process of, kind of,
holistically evaluating our public communications

around these overflows. It's pretty robust, I
think, considering they happen seven times a
year, but I think savvy people would be going to
our website and be checking the hotline and the
website is now app phone friendly. We used to
have an app, but my IT department tells me that
you don't need apps anymore, nobody's doing that
anymore. They're moving to the web-based
platform. So, I think I'd like us to talk a
little bit, maybe, at the break with your staff
about your concerns. I think, we work closely
with our Department of Public Health. We have no
concerns at this point based on any information
available to us about the efficacy of our public
health communication programs. We do have a lot
of concerns about the very extensive I sound
like such a discharger and those of you that knew
me, Jim, 15 years ago, would be appreciative of
this these are really prescriptive permits.
These are some of the longest, most prescriptive
permits in the country and I just want to caution
us against putting too many deadlines into an
NPDS permit or maybe we can find other ways to
address these concerns and just ask the question:
is it appropriate as an NPDS permit requirement

versus some other mechanism. So, the two other
issues and I've struggled with what to say,
but you've all, presumably, read our submittals
and our comments in response to comments so I
think my challenge today and I don't know if
I'm up to the task, but I'm going to try, is to
try to communicate in, like, real-people speak
what our fundamental concerns are and so, there
are two of them. The terminology here gets
really, really confusing quickly, so one relates
to what are called: sewer overflows in the
combined sewer system and these are instances
where sanitary flows or a mixture of sanitary
flows and stormwater come out of the combined
system like the photos you saw. Those do not
reach waters of the U.S. What happens is the
surcharge, the main will surcharge and then the
waters the flow goes back into an adjacent
catch basin and goes back into the combined sewer
collection system. The second are the combined
sewer overflows or combined sewer discharges is
what we've been calling them in our permits, and
those are the actual discharges seven times a
year on average for the past, since 1997, that
reached surface waters in our discharge. So, we

have concerns about we have strong
disagreement about the legal bases for the permit
requirements related to both sewer overflows in
the combined sewer system and also the LTCP
update, which relates to the combined sewer
overflows that reach surface waters. I think
that you can read all of the detail that you need
about that in our comments and then also the
response to comments, but fundamentally, we have
a legal disagreement about whether those are
appropriately whether you can appropriately
regulate sewer overflows in the combined sewer
system via an NPDS permit under the Federal or
State Clean Water Act. And then secondly, with
respect to the combined sewer overflow, that
one's a little bit more nuanced. Jessica did an
excellent job of presenting our standard
presenting our current level of performance,
which is, on the oceanside, we have eight
outfalls. On average, since 1997, they have
discharged seven times discharge in seven
storm events. So, we're talking seven to ten
days a year, depending on how long the storm
lasts, of receiving water quality impacts. So,
it was very, very brief when you look at it

holistically. We've done extensive recuse
surveys that show that the actual recuse except
for those nutty, nutty surfers, maybe, is very,
very limited. It's what you would expect. Ocean
Beach is a dangerous beach with strong riptides
and currents and surf during storm events. So,
what's not what hasn't been what is shared
with you in the context of the permit and the
record before you, but wasn't in Jessica's
presentation, is how we got to this point. So,
USCPA and the State mandated that the City of San
Francisco reduce combined sewer within
combined sewer overflows to no more than eight
per year on the ocean side. This was, kind of,
the precursor to the CSO Control Policy. So,
they say, "This is your performance standard. If
you get to eight a year based on the monitoring
and modeling that you've done, beneficial uses
will be protected." So, San Francisco built that
system that includes that huge transport storage
box, new ocean side treatment plant, so increased
storage and treatment capacity and has been
operating it since 1997. The actual performance
of the system is better than what was initially
predicted, based on modeling. So, where we are

today in terms of having to do an LTCP update is,
our understanding from all of the information
that we've collected and submitted is that the
current level of wet weather controls is
protecting beneficial uses. So, the requirement
to do a long-term control plan is not a rinse and
repeat requirement. You do it once, you only re-
do it if either, (1) you didn't meet the
performance standards that you thought you were
going to meet or (2) the information available to
you through post-construction monitoring shows
that you're not protecting beneficial uses.
Neither of those situations is applicable here.
So, where we're at is with is trying to accept
a permit requirement that requires us to update a
long-term control plan, which to be blunt about
it, is a giant, lengthy, capital process for
virtually every other combined sewer system in
the country. So, requirement to update that, but
it feels a little bit like we don't know why and
we don't know how much and I think what we're
concerned about or not, think, I know one of
the things we're concerned about is it will be a
"we know it when we see it" approach to
regulation, which creates a lot of uncertainty.

San Francisco is like every other utility in the
Bay area. It's too bad that Jackie Kepkey is not
here any longer. We're making massive re-
investments in our existing infrastructure and
trying to balance those investments against a
whole other portfolio of needs. We cannot afford
to touch on some of the comments you heard in the
resiliency context. We cannot afford, as a
community or as a society, to spend any one
dollar that only helps us achieve one goal.
Every dollar spent on infrastructure needs to
make sure that it's in good shape, needs to
provide additional environmental benefits, needs
to prepare us in some way, shape or form for
climate change and so, our fear is, that the LTCP
update will focus narrowly on how much volume is
discharged or how many times it discharges and
completely ignore the public impacts, the costs
or other benefits that we could be achieving
through a more integrated approach to planning.
So that's oh wait, Jim, you had a comment. I
hope that made sense. It all makes sense in my
mind because I've been living and breathing it
for so long. Jim, Bayside versus Oceanside,
those photos from the website,

1	solutionsnotsandbags, I'd have to check. I
2	believe that most of those were taken on the
3	Bayside.
4	(indiscernible)
5	JAMES MCGRATH: Jane first and then
6	Newsha.
7	JAYNE BATTEY: I just want to try to
8	understand what's involved with the long-term
9	JAMES MCGRATH: Can you use your mic?
10	JAYNE BATTEY: Sure. I'm sorry. I'm
11	so relaxed I forgot to use the mic. The long-
12	term control plan, I just want to understand a
13	little better what's involved. If I think I
14	heard you say the plan is working
15	AMY CHASTAIN: We have we had a plan
16	that was a big capital plan. We constructed it.
17	It is performing it's providing the level of
18	weather control that it was designed to perform.
19	JAYNE BATTEY: So, can you say a little
20	bit more about the cost of doing updating a
21	plan or doing a new plan and, I guess I'm a
22	little confused about I mean, I would assume
23	with all that is going on with sea level rise in
24	the
25	AMY CHASTAIN: Yeah.

1	JAYNE BATTEY: the what we're
2	looking at as we go forward, I would think you
3	would want to keep doing long-term planning. I
4	must be confused.
5	AMY CHASTAIN: No, those are you're
6	not confused. Those are on point, I think. So,
7	the capital plan that we developed that
8	resulted in the construction of our current
9	treatment plants and storage. That is meeting
10	the designed performance expectations today. The
11	in terms of capital planning, any long-term
12	control plan is not it's just one part of an
13	overall capital plan. The City and County of San
14	Francisco and the Wastewater Enterprise are
15	undertaking massive capital plannings constantly.
16	We have a two-year budget cycle where a 10-year
17	CIP gets revisited on that cycle, so, it's just
18	planning around regulatory requirements is just
19	one piece of our greater capital plan. And maybe
20	it would in terms of my point about spending -
21	- the dollars spent on infrastructure, I mean,
22	maybe it would help if I gave a specific example.
23	The Sea Cliff area, which Jessica showed on the
24	presentation, there are three outfalls there.
25	They've discharged very, very small volumes of

water and it's their discharge is mostly
driven by a small stormwater catch mitt that's in
the Sea Cliff neighborhood. We know those pump
stations need to be rehabilitated. They're on
federal land, so that's been challenging.
There's easement issues that we that's a
priority for us to rehabilitate those pump
stations. So, we looked at that watershed
holistically and asked, "Okay, if we know we have
this need to rehab these pump stations, but we
also have other objectives, how can we accomplish
multiple objectives through that rehabilitation?"
and the result is, we're implementing a green
infrastructure project in that catch mitt that's
going to further reduce stormwater loading to
that pump station and provide some water quality
benefits and then we also are looking at
modifications to the pump station itself to see
if we can achieve additional other benefits. So,
the driver here is protection of our existing
infrastructure. But whenever we look at how
those what other we always want to look at,
what are the other objectives that a dollar spent
on reinvesting in your infrastructure can help
you achieve. That's one example. Thanks.

1	DR. NEWSHA AJAMI: I've got a question.
2	I did not have a question.
3	JAMES MCGRATH: There are certainly
4	questions. I think we understand your argument.
5	I think you've articulated it better than I
6	understood it from reading the response letters
7	and the comments. I'll paraphrase: three things
8	that I've heard, first you're arguing it's not
9	our business if water comes out of the pipe and
10	goes into the street if it goes back into the
11	pipe before it reaches the ocean. So, we'll talk
12	to our lawyers and our staff about whether or not
13	we agree with that when we come to the process of
14	discussing the merits of the project. The second
15	thing you're arguing, which is also, I think a
16	legal issue, but I want to make sure that they're
17	highlighted so they can be discussed, and our
18	lawyers can give us advice. You're arguing
19	something akin to a vested right interest that,
20	because there was a mandate to reduce overflows
21	to eight per year and you built a system pursuant
22	to that that's performing at seven a year, that
23	you have a right to continue to use that and that
24	that's a standard and continues to have some
25	legal authority. I'm simplifying these so I can

1	hold them in my mind and so we can sharpen them
2	up. Is that a and then there's the third
3	question of, given that, and given the
4	uncertainty of what might come out, you're
5	worried about a long-term control plan revisions,
6	but you haven't really talked about the cost.
7	Have I got your three issues identified?
8	AMY CHASTAIN: Can I I'd like to
9	tweak the first two. I think
10	JAMES MCGRATH: Sure.
11	AMY CHASTAIN: in significant ways.
12	With respect to what's it's easier for me if
13	we call it just flooding, like flooding in the
14	combined sewer systems, but the source being the
15	collection system. This is a legal issue, but
16	it's also a policy issue and a governance issue.
17	So, during as Jessica's presentation showed,
18	during dry weather, our pipes act like any other
19	separate like any separate sanitary sewer
20	system. Their purpose is to convey sewage from
21	homes and businesses to our treatment plant and
22	do that without having it be on the surface of
23	the street. When wet weather hits, our combined
24	sewer system becomes mostly a stormwater
25	conveyance system. If you look at the size of

our pipes, they are much larger. Most of our big
most of our big most of our, like, pipes in
down the middle of the street are the size of,
like, other agency's interceptors. I mean, the
scale of these is it's very apparent they're
designed to carry stormwater. So, the question
for you guys, it's not apart from the legal
argument, it is: do you want to get into the
business of mandating or regulating how someone
sizes their stormwater conveyance systems because
that's the situation that we're faced with here.
There are small amounts of sanitary flow and
that's why this is a topic here, but the vast
majority in wet weather when these events occur,
the system is full of stormwater and those pipes,
their primary function is to move stormwater, not
sanitary flow. So, Jim, that's the one
distinction I would make, that's it's not just
that this is inappropriate under Clean Water Act
framework for regulation, but it's also, kind of,
from a policy, good government's perspective, not
necessarily it's something that we would have
concerns about the Regional Water Board getting
involved in.
JAMES MCGRATH: Okay.

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1	AMY CHASTAIN: Ok, sorry, with CSDs,
2	it's not that we're viewing it as a vested right
3	and I'm sorry for not being clear, but the point
4	is that all of the information that we have
5	submitted and is available to us, which is a lot
6	of information, indicates that the current level
7	of overflow control is protecting our Pacific
8	Ocean. That further reductions are not needed to
9	meet the water quality-based requirements of the
10	Clean Water Act. So, not the vested right
11	thing it always, kind of, make me frazzled
12	because I don't I don't think that I like
13	to look at people's vested rights with scrutiny,
14	but we're not claiming that we did it and we're
15	one and done. We're saying, the information on
16	the table today shows that we are protecting
17	beneficial uses.
18	JAMES MCGRATH: Okay.
19	AMY CHASTAIN: Thank you.
20	DR. NEWSHA AJAMI: Jim, can I actually
21	ask a question? Sorry, I was trying to go back
22	to some of the tables I looked at a couple of
23	days ago and I found them. Actually, there's on
24	on F-8, which shows your combined sewer overflow.
25	And you can see what I see in this table is
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1	that every time we get higher than about 30 or 28
2	inches of rain, there is significant sewer
3	overflow.
4	AMY CHASTAIN: The average yeah, an
5	average rainfall
6	DR. NEWSHA AJAMI: For example, 2016-17
7	was a very, very wet year, right?
8	AMY CHASTAIN: Right. Mmm hmm.
9	DR. NEWSHA AJAMI: 13, 13, 13, right?
10	14 in the Seacliff #2, right?
11	AMY CHASTAIN: Mmm hmm.
12	DR. NEWSHA AJAMI: And then so, you
13	see that that's, sort of like, very similar to
14	the 2005-06, again, another wet year. 09-10
15	sorry, 10-11, the system worked well, I'm
16	assuming because this rainfall was distributed
17	over time by there then being one major
18	rainstorm. But, you know, what makes two
19	questions here: one is, you know, living in the
20	city, I see, like, tons of these, like, little
21	medians that are coming up, the roundabouts, all
22	these different green infrastructure, which I'm
23	assuming that's why they're, sort of, being
24	worked around. Have you seen any improvements in
25	in the way that street flooding, in addition
	Dago 20

1	to, like, overall overflows you have, I would
2	say, from my experience, I have seen some of
3	these streets getting flooded less, but I'm not
4	sure it's that because of that or something else.
5	So and also, I mean, 13 is a huge number, 9
6	right above it. They're very large numbers, so,
7	you're still, like, seeing years that they have a
8	lot of overflow large number of overflows.
9	I'm expecting more and more of these intense
10	rains, right? That's the issue, right?
11	AMY CHASTAIN: That a I knew Newsha
12	was going to ask the difficult questions because
13	of the hydraulic engineering background, so, so,
14	CSDs, the ones that reach receiving waters, they
15	are really driven by the total volume of rainfall
16	with every storm event and the antecedent
17	conditions. So, if it's a we get a series of
18	small storms back to back and then we get an El
19	Nino type storm, like, you're guaranteed, based
20	on the circumstances, to max out your treatment
21	capacity your treatment capacity and your
22	storage capacity. Flooding is really driven by
23	that peak 5, 10, 15-minute intensity of the storm
24	event. And those are so, the hydraulic and
25	the what is it the rainfall factors

1	hydraulic and hydrologic, thank you factors
2	that drive each of these events are very
3	different, so the way I wouldn't want to
4	speculate in front of you guys about performance
5	of the system, but I am going to geek out a
6	little bit. We have really great tools to
7	simulate that. We have an extremely well-
8	calibrated H&H model that contains every single
9	pipe in the entire system. We simulate a typical
10	year storm, which is, kind of, the industry
11	standards for evaluating your CSO performance and
12	then we also simulate design storms based on
13	extensive historic rainfall data sets and as
14	Jessica mentioned, if you go on our website,
15	you'll see flood notification maps and flood
16	hazard communications that are all based on that.
17	The model's been extensively calibrated and
18	validated. So, we use it to answer questions
19	like you just posed, but I wouldn't be prepared
20	to answer that today.
21	JAMES MCGRATH: So, we've heard from
22	San Francisco. Greg, did you have anything to
23	add or are you going to go with Amy here?
24	AMY CHASTAIN: Oh, okay, Michael
25	JAMES MCGRATH: So, we understand
	Dago 41

1	you're not happy. That's clear. So and we're
2	not going to have a chance to discuss this before
3	lunch in our closed session, so the question is:
4	we have three more cards. Do we want to hear
5	briefly from them and then take the lunch?
6	DR. NEWSHA AJAMI: As long as you are
7	okay, I'm you know, I'm
8	AMY CHASTAIN: I just want to say thank
9	you
10	JAMES MCGRATH: Lisa Lisa Dunseff.
11	Please try to hold it to three minutes. After
12	that, David Hooper.
13	LISA DUNSEFF: Thank you so much. Good
14	afternoon. Excuse me. Let's see. My name is
15	Lisa Dunseff. I'm a San Francisco resident and
16	I'm here to present represent
17	solutionsnotsandbags and to speak in behalf of my
18	neighbors who have suffered for many years from
19	the San Francisco PUC's negligence. The PUC
20	thank you thank you sorry. The PUC has
21	knowingly allowed sewage to contaminate my
22	neighbors' homes, businesses, sidewalks and
23	streets for many, many years and my neighbors are
24	all people working-class people in my
25	neighborhood with jobs and families and they
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can't afford to come to these meetings. So,
that's why I'm here. The PUC has acknowledged
the sewer flooding problem and yes, those two
photos were from the Bayside. They even proposed
solutions in the past. But for decades, they
have over and over again refused to correct the
infrastructure problems which cause it. And
perhaps many of the staff here today didn't even
work here work for the PUC then. I don't
know. They always say there isn't enough money,
but we all know they have a lot of money. The
Goliath that is the PUC is a powerful, economic
engine. They are used to acting with impunity
and they continue to ignore pleas to protect the
public health and safety of all of the citizens
of San Francisco, including those who live in the
Cayuca area, which is on the Bayside. This
wouldn't be happening in Pacific Heights, in
other words. So, I'm here today just to say to -
- I want to appreciate Jessica's report. I
really appreciate the staff's work and we look to
you for your leadership because we need some
leadership. So, please use your authority in any
way you can to require the PUC to make public
health and safety their first priority in all of

1	their enterprises. Thank you very much for your
2	time and for considering this request.
3	JAMES MCGRATH: Thank you. David
4	Hooper.
5	DAVID HOOPER: Good afternoon. I also
6	serve on solutionsnotsandbags. Commonly when the
7	Winter storms are coming our way, the PUC
8	accommodates the communities affected by it on
9	the west side and Engleside Terrace near Victoria
10	and Urbano at 15 th and Wawona, in particular,
11	regarding this issue today.
12	Solutionsnotsandbags. When the PUC responded to
13	the Water Board's projections, they didn't
14	respond specifically and mention public health.
15	They talk about the minimization it's almost
16	all stormwater, it's not fecal matter, but we're
17	supposed to measure fecal matter and figure out
18	just what the problem is. When their people
19	respond to empty out the basements and the ground
20	floors of the homes affected, they are all in
21	hazmat. They have a projection to protect the
22	people who work for them through contractors, but
23	not the homeowners. We're told that we have to
24	have a dollar do more than one thing and if the
25	one thing is protecting these homes, then it

isn't going to get done. I I can't describe
how people can enter a having worked for the
City myself and retired from them and tried to do
my job responsibly, I can't begin to understand
the conflicts for people who have to represent
the City to you on this basis. It's on the basis
of exceptionalism. We are the exception. All of
the other cities that have been representing
themselves here around the Bay area, especially
on the Bay and on the coast, all know they have
to work together, but we have an agency that
decides that we're going to decide whether or not
we report to you. There's no data, there's no
accountability and you're told that there is no
legal basis for your requiring them to respond
and report. This is a dismal situation. It's my
city, it's everybody else's city and yet there's
no response. Now, what the PUC, Harlem Kelly and
Stephanie Johnson, get up there and they
acknowledge, yes, it is fecal matter that's
entered their homes. They have to tear off all
of the sheetrock on the ground floor. The
tenants of ground floors have to go. We have to
reach an agreement once somebody has to go to the
trouble of filing lawsuits and we poo-poo it, but

1	it doesn't become a matter for examination unless
2	there's reporting, unless there's an
3	acknowledgment, unless there's data. So yes,
4	when it comes up into the ground and then it goes
5	into the ground again. My gosh, we have
6	underground creeks still in San Francisco that
7	enter down and those creeks include this water as
8	well. Just because most of it goes back into the
9	sewer system doesn't mean it all goes back into
10	the sewer system. Thank you.
11	JAMES MCGRATH: And last, we have Becky
12	Mitchell. And Becky if you would add your
13	observations of exactly how combined sewer
14	overflow policy was incorporated into the Clean
15	Water Act. I started at EPA before this, but I
16	don't remember that provision of the Clean Water
17	Act that well, so, if you could help me on that.
18	BECKY MITCHELL: Yeah. It's confusing
19	and I might look to Marnie to help me out legally
20	for that. But, good afternoon. My name is Becky
21	Mitchell and I work in the NPDS Permit Section at
22	EPA Region 9 and I'm joined by my supervisor,
23	Elizabeth Sublott and I took the oath this
24	morning. So, to answer your question
25	specifically, I believe in 2000, the Clean Water

1	Act was amended to incorporate the CSO Control
2	Policy, which was drafted in 1994. I'm looking
3	at Marnie.
4	MARNIE: Yes.
5	BECKY MITCHELL: Okay, thank you. So,
6	I'd like to thank the Board staff for their
7	technical assistance provided during the
8	reissuance process and also thank the Board for
9	providing time today for EPA to make a few
10	comments. As explained earlier today, EPA is
11	here because the permit would authorize
12	discharges to federal and state waters.
13	Therefore, the permit is jointly issued by the
14	Board and EPA. EPA has worked closely with your
15	staff during permit development and have
16	responded jointly to all public comments. EPA
17	and the Regional Board Staff also have worked
18	closely with the City and County of San Francisco
19	during the permit reissuance process. For
20	example, since last October, EPA and the Regional
21	Water Board Staff have met nine times with the
22	City. This substantial engagement is reflective
23	of the complexity of the combined sewer system
24	and resulted in revisions to permit requirements
25	that reflect the site-specific nature of the

1	City's combined sewer system. So, I'm here today
2	to express EPA's support for the revised
3	tentative Order as currently drafted. We
4	specifically support the long-term control plan
5	requirements and the receiving water limitation
6	that requires that the discharge shall not cause
7	or contribute to a violation of any applicable
8	water quality standard. We explain in the
9	response to comments that the receiving water
10	limitation is frequently used in NPDS permits for
11	publicly owned treatment works issued by this
12	Regional Board as well as for other combined
13	sewer system NPDS permits, including the City of
14	Sacramento. The revised Order contains the
15	rationale for both of these requirements,
16	including the need to reflect monitoring,
17	continued consideration of sensitive areas at
18	public beaches and compliance with the applicable
19	water quality standards. This concludes my
20	remarks and thank you for your time.
21	JAMES MCGRATH: Thank you. With that,
22	we're going to break for our closed session,
23	which is going to be upstairs. We will not be
24	back in this room before 1:30 at the earliest, so
25	those of you who are hungry can count on that. I
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1	won't guarantee we'll be back here at 1:30.
2	WOMAN: Chair McGrath, so we need to
3	specify what we're going into closed session for.
4	JAMES MCGRATH: And you're going to
5	help me with that, aren't you?
6	WOMAN: So, we're going into closed
7	session for personnel and also to discuss the
8	Sweeney vs. Water Board litigation, as well as
9	the Santa Clara Valley Water District vs. Water
10	Board litigation.
11	JAMES MCGRATH: I've had lawyers keep
12	me out of jail for a long time. Thank you.
13	JAMES MCGRATH: (indiscernible) back
14	into session?
15	WOMAN: Yes.
16	JAMES MCGRATH: Marnie, are you ready
17	for me?
18	MARNIE: I am. Hold on. Yes, I'm
19	ready.
20	JAMES MCGRATH: Okay.
21	MARNIE: So loud.
22	JAMES MCGRATH: And Michael and crew is
23	here. Michael and Amy and the others. So, we
24	have had legal issues raised and I want to make
25	sure that the Board understands why we've heard
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1	from the City, we want to understand and clarify.
2	So, I've got two questions for you: the first one
3	is, do we have, in your view, authority to
4	regulate water that causes nuisance or public
5	health problems, even if that material goes back
6	into the combined sewer system and does not
7	overflow into waters of the State?
8	MARNIE: I think you would be surprised
9	if I said no. So, yes, I do the Regional
10	Board does have authority to regulate those
11	discharges that go into the street. So, I'm
12	sorry anyway, so, the permit the permit
13	requires monitoring and reporting of those
14	discharges and part of the reason it requires
15	monitoring of those discharges is because it's
16	not clear ex ante whether those discharges go
17	into waters of the U.S. or waters of the State.
18	The reasons why monitoring and reporting is
19	required is to help with implementation of the
20	nine minimum controls to ensure that San
21	Francisco is properly operating and maintaining
22	its system, that their pollution prevention
23	programs are operating properly and in addition
24	to that, capacity related problems are not
25	treated separately or distinctly under the Clean
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1	Water Act or under (indiscernible).
2	JAMES MCGRATH: Now, the authority does
3	not necessarily prescribe either a specific
4	solution or any solution at all, but it's the
5	authority. The second the second legal issue
6	that has been raised is whether or not the
7	Board's authority is in some way constrained by
8	the agreement to which is quite a while in the
9	past to treat the few combined sewer systems
10	in a manner that was different than conventional,
11	secondary treatment and that was eventually
12	incorporated into the Clean Water Act. And while
13	I certainly think that has equity implications, I
14	want to know if, in your view, that restricts the
15	Board's authority to require things like the nine
16	measures.
17	MARNIE: So, the CSO why does
18	what's happening?
19	MAN: They're back there messing with
20	the sound. Try that mic next to you.
21	MARNIE: Okay. So, the no.
22	MAN: Mic's not working?
23	MARNIE: Mmm mmm.
24	MAN: Check one yeah.
25	(indiscernible)
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	rage 31

1	MARNIE: Testing.
2	MAN: Is this one working? No.
3	JAMES MCGRATH: I got This one's not
4	working either.
5	MAN: Testing one, two. Check one,
6	two. Okay.
7	JAMES MCGRATH: Down it goes.
8	DR. NEWSHA AJAMI: Now the screen is
9	working. Mic is not working. I think they
10	turned down the cooler, that's why.
11	JAMES MCGRATH: When we turned up the
12	heat, it killed the electricity for the
13	microphones.
14	DR. NEWSHA AJAMI: Exactly. There we
15	go. Perfect.
16	JAMES MCGRATH: Oh, they're back. Are
17	you okay now?
18	MARNIE: Yes. Okay. Okay, like this?
19	All right. Okay. So, the CSO policy as well as
20	the guidance contemplate updates to the long-term
21	control plans and other municipalities, including
22	Sacramento, have updated their long-term control
23	plans to reflect, you know, changes in the
24	climate and changes in the population density and
25	that sort of thing, so I don't think it's that
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1	unusual for long-term control plans to be updated
2	and it's certainly contemplated by the law.
3	JAMES MCGRATH: Thank you. So, I
4	wanted to make sure that we understood that the
5	viewpoint of the City as to our legal authority
6	is not shared by our own attorneys and we can
7	pick which we want to listen to. With that, I'll
8	return it to the Board for their comments,
9	questions and preparing for action. Steve's
10	going to pass.
11	DR. NEWSHA AJAMI: Me too. I just want
12	to say I appreciate the legal explanation that
13	Marnie provided and certainly valuable and
14	informative in the decision-making process, I
15	guess.
16	JAMES MCGRATH: Jayne? I'm not. And
17	so I'm probably the only Board member and
18	maybe the only person in the room that's been on
19	the Lincoln overflow structure when it's been
20	running. I took my wife out to look at how nasty
21	things get in a storm and we stood up on top I
22	know how to show a girl a good time, I've got to
23	tell you.
24	DR. NEWSHA AJAMI: Was it a date?
25	JAMES MCGRATH: So, I've been there and
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indeed no-one was in the water or on the beach.
There wasn't much beach, it was pretty hairy out
there. I've been around this particular issue
since my time at EPA many, many years ago and
indeed there are and I think this is important
to recognize when we grapple with the equity
issues. There are important benefits that we
know now that we didn't understand when we were
grappling with the combined sewer system. That
in fact, if you look at the total amount of
pollutants by mass emissions discharged into our
waters, there are benefits in what they treat for
freshwater for stormwater that are
significant, and I think are weighed in the
equity. And I'll also invoke a personal
relationship, I remember beginning to work with
the Port of Oakland when Michael Carlin was here
and running in any number of problems that had to
clean up and my experience was with the Board
under Michael's guidance, at the time, was any
time the Port of Oakland proposed something to
deal with a discharge or a problem that we had
that we felt was responsible, we were treated
fairly by the Regional Board and reasonably. And
I would assure that attitude still exists. It

wasn't just you, Michael. So, I think it is
important to recognize that we do recognize the
equity benefits of that system. On the other
hand, that doesn't mean the status quo can extend
forever no matter what and that you don't look.
I don't think I mean, I heard, and I
appreciated Amy's comments. I don't see this as
prescriptive in solution and I wouldn't support
it if it were. I think it is it does require
that you look and looking at a problem, including
flooding, doesn't automatically get us to, this
must be fixed this must be fixed under at a
certain period of time. We don't know what it
would cost. I think it is in your own advantage
to update the long-term look. I think you have
capabilities in terms of what you know about
monitoring that you can tell us. If in fact the
case can be made compelling based on monitoring
data, which is robust, that beneficial uses are
met with the discharges as the way they are, the
fact that we have authority over that doesn't
matter. The question is how good the case is and
whether the monitoring is sufficient. So, you
will take it where you will take it. I
understand that. I think it's important that you

1	hear that we understand the equity involved in
2	the investment and we're not talking about
3	separating the sewers at large, but there may be
4	some circumstances where we might be talking
5	about improvements and those discussions are
6	ongoing. I don't think our staff dictates and I
7	think just, as when Michael was around, the
8	Regional Board Staff had some well-articulated
9	arguments. So, that's my comment. I'm going to
10	support the staff recommendation as it is and I
11	want to make it clear that the fact that we have
12	authority does not mean that it requires, at this
13	stage, anything in particular, other than the
14	completion of the studies. So, can we have a
15	staff recommendation? And any further comments
16	that you would like to make?
17	WOMAN: We had a request for
18	(indiscernible).
19	MAN: Can you come to the microphone
20	please?
21	MAN2: Yeah, Bill do you have that?
22	DR. NEWSHA AJAMI: E-coli.
23	(Crosstalk)
24	JAMES MCGRATH: Sure.
25	DR. NEWSHA AJAMI: I think she asked
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1	for e-coli because they
2	AMY CHASTAIN: Yeah, that was it.
3	(Crosstalk)
4	JAMES MCGRATH: We'll take care of
5	that.
6	MAN: So, Bill Johnson has a
7	recommendation for
8	BILL JOHNSON: Sure. So, thank you
9	Amy. We haven't forgotten you. So, in addition
10	to the revised tentative Order you have in front
11	of you, and of course the supplemental and the
12	various changes that are listed in there, I can
13	propose a few other changes to add footnotes
14	related to fecal coliform. So, to be specific
15	and I'll just read this for the sake of the
16	record. I'm talking about page E-16, Table E-11,
17	where we would add a footnote to the parameter of
18	fecal coliform. It would be footnote #3 and then
19	at the bottom of that table, adding a footnote 3
20	as: "The discharger shall begin monitoring fecal
21	coliform on October 1, 2020." That essentially
22	postpones the need to do the fecal coliform
23	monitoring for this wet season and will have it
24	in place for the next wet season. That is not
25	the only place the fecal coliform comes up. It
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1	is also on pages E-16 and E-17 in Table E-12.
2	So, there as well, under the parameter of fecal
3	coliform, we would add a new footnote 4 and then
4	under Standard Observations, that footnote 4
5	would be turned into footnote 5 and then the new
6	footnote 4 that would be added to the footnotes
7	on that Table would read exactly the same: "The
8	discharger shall begin monitoring fecal coliform
9	on October 1, 2020."
10	JAMES MCGRATH: And I guess I have two
11	questions to that: one of you with the
12	enterococci, that's a sufficient interim test to
13	be able to distinguish between human and other
14	sources of e-coli, correct?
15	BILL JOHNSON: Yes.
16	JAMES MCGRATH: And to Amy, is that
17	sufficient time to get your lab up to speed?
18	AMY CHASTAIN: It will be.
19	JAMES MCGRATH: It will be. There are
20	advantages to having a discharger with a good
21	lab, so I appreciate that. Any other comments or
22	changes you want to make, Bill? Michael?
23	BILL JOHNSON: No.
24	MICHAEL MONTGOMERY: So, with that
25	change we recommend that the Board adopt the
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1	reissued permit.
2	JAMES MCGRATH: Can I have a Motion?
3	DR. NEWSHA AJAMI: I'll move.
4	JAYNE BATTEY: Second.
5	JAMES MCGRATH: Any further discussion?
6	DR. NEWSHA AJAMI: Can I so, as a
7	resident of the City of San Francisco
8	(indiscernible) I want to say, I really
9	appreciate all the work that you guys are doing
10	to deal with the different storms and flood
11	issues and everything. It's not easy to run a
12	water and wastewater system in a very dense area,
13	so there is definitely appreciation for that.
14	And I want you to realize that everything that
15	you are doing is just forward looking and it's
16	just to help everybody who has been
17	(indiscernible) there to be able to see what's
18	coming in the next 20, 30, 40, 50 years. And I
19	know that's how you guys also do capital planning
20	and look ahead and I really want to make sure
21	that, obviously, the public health is protected
22	and also, our City can thrive and as we, sort of,
23	deal with all these issues that are related to
24	climate change. And I'm not going to be
25	surprised to see more bigger storms and larger

1	and more intense storm events in the years to
2	come and it's really important for all the people
3	in different parts of the city to have access to
4	the to, you know, proper stormwater management
5	and wastewater system, regardless of which part
6	of the city they live in and what kind of
7	gradients they're building and their houses are
8	on. So, thank you. I really appreciate you guys
9	all coming, giving and for your presentation
10	and I also want to acknowledge the residents who
11	took time and came and talked because, you know,
12	we always love to hear from the constituents in
13	any ways we can. Thank you.
14	JAMES MCGRATH: Can we call the roll?
15	CECILIA OGBU: I just wanted to say one
15 16	CECILIA OGBU: I just wanted to say one thing, sorry.
16	thing, sorry.
16 17	thing, sorry. JAMES MCGRATH: Oh, I'm sorry.
16 17 18	thing, sorry. JAMES MCGRATH: Oh, I'm sorry. CECILIA OGBU: This was just I
16 17 18 19	thing, sorry. JAMES MCGRATH: Oh, I'm sorry. CECILIA OGBU: This was just I realized that we've been talking about all these
16 17 18 19 20	thing, sorry. JAMES MCGRATH: Oh, I'm sorry. CECILIA OGBU: This was just I realized that we've been talking about all these areas of disagreement, but I just wanted to note
16 17 18 19 20 21	thing, sorry. JAMES MCGRATH: Oh, I'm sorry. CECILIA OGBU: This was just I realized that we've been talking about all these areas of disagreement, but I just wanted to note that I was to thank you for the presentation
16 17 18 19 20 21	thing, sorry. JAMES MCGRATH: Oh, I'm sorry. CECILIA OGBU: This was just I realized that we've been talking about all these areas of disagreement, but I just wanted to note that I was to thank you for the presentation and everything and also, just note that I was
16 17 18 19 20 21 22 23	thing, sorry. JAMES MCGRATH: Oh, I'm sorry. CECILIA OGBU: This was just I realized that we've been talking about all these areas of disagreement, but I just wanted to note that I was to thank you for the presentation and everything and also, just note that I was really glad to see the Westside recycled water

1	that and so, I just wanted to bring that up
2	because that's great. So, thank you.
3	JAMES MCGRATH: Now you can call the
4	roll.
5	WOMAN: I guess I say Chair McGrath
6	JAMES MCGRATH: Yes.
7	WOMAN: Vice-Chair Gaddy.
8	VICE-CHAIR GADDY: Yes.
9	WOMAN: Board member Kissenger. Sorry.
10	Board member Ajami.
11	DR. NEWSHA AJAMI: Yes.
12	WOMAN: Board member Lufkowitz.
13	BOARD MEMBER LUFKOWITZ: Aye.
14	WOMAN: Board member Ogbu.
15	CECILIA OGBU: Aye.
16	JAMES MCGRATH: So, ordered. That's
17	kind of fun to say. I think we can adjourn.
18	
19	
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25	
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1	CERTIFICATION
2	
3	I, Sonya Ledanski Hyde, certify that the
4	foregoing transcript is a true and accurate
5	record of the proceedings.
6	
7	
8	
9	<%12151,Signature%>
10	
11	Veritext Legal Solutions
12	330 Old Country Road
13	Suite 300
14	Mineola, NY 11501
15	
16	Date: September 18, 2019
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