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April 20, 2012

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Jay Thomas
Magic Mountain, LLC
26101 Magic Mountain Parkway
Valencia, CA 91355

Six Flags Magic Mountain
26101 Magic Mountain Parkway
Valencia, CA 91355

Magic Mountain, LLC
One Post Office Square
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Six Flags Theme Parks, Inc.
924 Avenue J East
Grand Prairie, TX 75051

Jim Reid-Anderson
Chairman, President and CEO
Six Flags Entertainment Corporation
924 Avenue J East
Grand Prairie, TX 75051

Alexander Weber Jr.
Chief Operating Officer
Six Flags Entertainment Corporation
924 Avenue J East
Grand Prairie, TX 75051

Six Flags Entertainment Corporation
230 Park Avenue, 16th Floor
New York, NY 10169

VIA U.S. MAIL

Registered Agent for
Magic Mountain, LLC
Corporation Service Company Which Will Do Business in
California as CSC - Lawyers Incorporating Service
The Prentice-Hall Corporation System, Inc.
2710 Gateway Oaks Dr., Ste 150N
Sacramento, CA 95833

Re: Notice Intent to File Suit Under the Federal Clean Water Act

To Whom It May Concern:

I am writing on behalf of the Wishtoyo Foundation and its Ventura Coastkeeper program, Santa Monica Baykeeper, and Friends of the Santa Clara River (collectively referred to as “the Coalition”) in regard to violations of the Clean Water Act,¹ National Pollutant Discharge Elimination System (“NPDES”) Permit No. CA0003352 (“Individual NPDES Permit” or “Individual Permit”),² and the State of California’s General Industrial Storm Water Permit (“Storm Water Permit”)³ occurring at the Six Flags Magic Mountain Facility located at 26101 Magic Mountain Parkway, Valencia, California, 91355 (“Magic Mountain” or “Magic Mountain Facility” or “Facility”). The purpose of this letter is to put the owners and/or operators of the Facility⁴ on notice of the ongoing and continuous violations of Magic Mountain’s Individual NPDES Permit and the Storm Water Permit, including, but not limited to, unlawful discharges of pollutants from the Facility into waters of the United States, which are in turn violations of the Clean Water Act. As explained below, the Magic Mountain Owners and/or Operators are liable for violations of the Facility’s Individual NPDES permit, the Storm Water Permit, and the Clean Water Act.

Section 505 of the Clean Water Act allows citizens to bring suit in federal court against a facility alleged to be in violation of the Clean Water Act or NPDES permits. Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that 60 days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), citizens must give notice of their intention to sue. Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency (“EPA”), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency in the state in which the violations are occurring, and, if the alleged violator is a corporation, the registered agent of the corporation. See 40 C.F.R. § 135.2. By this letter, pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act, the Coalition hereby puts the Magic Mountain Facility Owners and/or Operators on notice that unless Magic Mountain takes all the steps necessary to remedy ongoing violations of its Permits, the Coalition intends to file suit in United States District Court immediately following the expiration of the required 60-day notice period, seeking injunctive relief and civil penalties in the amount of \$37,500 per violation discussed below and for any additional, similar violations that the Coalition may discover subsequently. If Magic Mountain has any information suggesting that one or more of the violations outlined in this notice letter did

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

² National Pollution Discharge Elimination System (“NPDES”) Permit No. CA0003352 [State Water Resources Control Board] Order No. R4-2011-0029 (replacing Order Nos. R4-2008-0209 and R4-2005-0036).

³ National Pollution Discharge Elimination System (“NPDES”) General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ (“Storm Water Permit”).

⁴ The owners and/or operators of the Facility are identified in greater detail in Section I.C. below and referred to hereinafter as “Magic Mountain Owners and/or Operators.”

not occur or is stated incorrectly, please immediately provide that information to the Coalition, specifying the violation in question.

I. Background

A. The Santa Clara River

Flowing approximately 116 miles from the headwaters of the San Gabriel Mountains to the Pacific Ocean through a 1,600 square mile watershed, the Santa Clara River is southern California's last naturally flowing major river system. In addition to being the largest wild river remaining in southern California, the Santa Clara River provides crucial aquatic ecosystem functions in the region, including groundwater recharge and riparian habitat for endangered and rare species. It is home to as many as 17 species listed as threatened or endangered by state and federal governments, and includes critical habitat for many species including the endangered Southern California Steelhead, Santa Ana Sucker, Tidewater Goby, Unarmored Threespine Stickleback, Pacific Lamprey, California Red-Legged Frog, Arroyo Toad, and Least Bell's Vireo. The Santa Clara River is also a significant input to southern California's coastal waters at the Cities of San Buenaventura and Oxnard, and a healthy, unpolluted Santa Clara River from Santa Clarita through Piru, Fillmore, Santa Paula, Saticoy, Ventura, and Oxnard provides unmatched recreational, cultural, aesthetic, and spiritual opportunities and resources in the region. In addition, the ecosystem services provided by the Santa Clara River, as recognized by the Regional Board's Water Quality Control Plan for the Los Angeles Region ("Basin Plan") include agriculture supply, groundwater recharge, freshwater replenishment, recreation, cold and warm freshwater habitat, wildlife habitat for rare, threatened, or endangered species, wetland habitat, estuarine habitat, and migration, spawning, reproduction and development habitat for aquatic organisms.⁵ See Basin Plan, pp. 2-1 - 2-5. Thus, it is imperative that Santa Clara River's water quality, aesthetic values, and aquatic ecosystem functions are adequately protected. In 2005, the Santa Clara River was named the "10th Most Endangered River" in the Country by the American Rivers organization due to anthropogenic impacts, such as pollution.

The Magic Mountain Facility is located immediately adjacent to Reach Five of the Santa Clara River, and is approximately 45 miles upstream from the Santa Clara River Estuary and the Pacific Ocean. The Facility discharges contaminated storm water and process wastewater from at least three discharge points. The frequent and high volume discharges from the Facility carry bacteria, metals, toxins, sediments and other pollutants into the Santa Clara River, its Estuary, and the Pacific Ocean. Furthermore, the Coalition has documented significant trash impairments in the Santa Clara River from the reaches of the River immediately downstream of the Facility's discharge points to the Estuary, and also in the Pacific Ocean. For the Santa Clara River watershed aquatic ecosystem to regain its health, for its threatened and endangered species such as the Southern California Steelhead to recover and thrive, and for its recreational uses and

⁵ Specifically, the Basin Plan lists the Beneficial Uses for waters in the Santa Clara River Watershed ("Beneficial Uses") as: agriculture supply (AGR), groundwater recharge (GWR), freshwater replenishment (FRSH), water contact recreation (REC1), non-contact water recreation (REC 2), cold freshwater habitat (COLD), warm freshwater habitat (WARM), wildlife habitat (WILD), rare, threatened, or endangered species (RARE), wetland habitat (WET), estuarine habitat (EST), migration of aquatic organisms (MIGR), and spawning, reproduction and development (SPWN). See Basin Plan, pp. 2-1 - 2-5.

values to be preserved, dischargers, such as Magic Mountain, must strictly comply with the terms of their permits and the Clean Water Act.

B. Coalition Groups

1. Wishtoyo Foundation and its Ventura Coastkeeper Program

Ventura Coastkeeper (“Coastkeeper”) is a program of the Wishtoyo Foundation (“Wishtoyo”), a non-profit public benefit corporation organized under the laws of the State of California with its main office at 3875-A Telegraph Rd. #423, Ventura, CA 93003. Founded in 1997, Wishtoyo is a 501(c)(3) non-profit grassroots organization with more than 700 members consisting of Ventura County’s diverse residents, Chumash Native Americans, and the general public who enjoy the recreational, spiritual, cultural, and aesthetic benefits of the Santa Clara River and Ventura County’s coastal marine waters and environment.

Ventura Coastkeeper’s mission is to protect, preserve, and restore the ecological integrity and water quality of Ventura County’s inland water bodies, coastal waters, and watersheds. Coastkeeper strives to maintain the ecological health of all waters with which its members and the County’s residents interact, including the reaches of the Santa Clara River that lie in Los Angeles County and that affect waterways and ecosystems in Ventura County. Coastkeeper accomplishes this mission through advocacy, education, restoration projects, community mobilization, as well as actively seeking Federal and State agency implementation of the Clean Water Act, and, where necessary, directly initiating enforcement actions on behalf of itself and its members. Coastkeeper is also a member of the Waterkeeper Alliance, a coalition of 190 member programs on six continents around the world fighting for clean water and strong communities.

As a program of the Wishtoyo Foundation, whose mission is to preserve, protect and restore Chumash culture, the culture and history of coastal communities, cultural resources, and the environment, Coastkeeper also strives to protect, preserve, and restore the natural resources upon which the Chumash, indeed all cultures, depend. The Chumash People, including members of Wishtoyo Foundation, have a long history of interaction with the Santa Clara River, all its native wildlife, and with the Santa Clara River’s population of Southern California Steelhead—a species listed as endangered under the federal Endangered Species Act—for a variety of cultural purposes including religious and ceremonial ones. The Chumash People and members of the Wishtoyo Foundation also share a sacred and cultural relationship with the “Isha’kowoch” (the Chumash name for Southern California Steelhead), that is depicted in Chumash Peoples’ ancient cave paintings, modern day art, celebrated in Chumash songs and ceremonies, and told in Chumash stories that have been passed down from generation to generation for more than 10,000 years. In addition, as a result of Chumash Peoples’ trading and intermarrying with the Tataviam People native to the Santa Clara River around Magic Mountain, Chumash People continue to utilize and rely upon cultural and natural resources from portions of the Santa Clara River adjacent to and immediately downstream from Santa Clarita and Magic Mountain.

Additionally, many of Wishtoyo’s and its Coastkeeper Program’s approximately 700 members live and/or recreate near and around Ventura County’s inland and coastal waters, including the Santa Clara River, Santa Clara River Estuary, and the Pacific Ocean. As further

explained below, the Facility discharges pollutants, including toxics, trash, and contaminated storm water, directly into the Santa Clara River, which flows into the Santa Clara Estuary that empties into the Pacific Ocean. Members of Ventura Coastkeeper and Wishtoyo use these waters to fish, boat, swim, bird watch, view wildlife and engage in scientific study and cultural activities. The unlawful discharge of pollutants from the Facility impairs those uses. Thus, the interests of Ventura Coastkeeper's and Wishtoyo's members have been, are being, and will continue to be adversely affected by Magic Mountain's failure to comply with its permits and the Clean Water Act.

2. Santa Monica Baykeeper

Santa Monica Baykeeper ("Baykeeper") is a 501(c)(3) non-profit public benefit corporation organized under the laws of the State of California, with its main office in Santa Monica, California. Baykeeper has approximately 3,000 members who live and recreate in and around the Santa Monica Bay area and Los Angeles County. Baykeeper is dedicated to the preservation, protection and defense of the rivers, creeks and coastal waters of Los Angeles County from all sources of pollution and degradation. To achieve these goals, Baykeeper actively seeks federal and state agency implementation of the Clean Water Act and, when necessary, directly initiates enforcement actions on behalf of itself and its members.

Members of Baykeeper reside in the County of Los Angeles, near the Santa Clara River, and use and enjoy the water into which Magic Mountain is illegally discharging pollutants. Members of Baykeeper use the Santa Clara River, Santa Clara River Estuary and the Pacific Ocean to swim, boat, kayak, bird watch, view wildlife, fish, hike, and engage in scientific study, including monitoring activities, among others. The unlawful discharge of pollutants by Magic Mountain impairs each of these uses. Thus, the interests of Baykeeper's members have been, are being, and will continue to be adversely affected by Magic Mountain's failure to comply with its permits and the Clean Water Act.

3. Friends of the Santa Clara River

Friends of the Santa Clara River (FSCR) is a 501(c)(3) non-profit, public interest organization formed in 1993 dedicated to the protection, enhancement and management of the resources of the Santa Clara River. FSCR has members throughout Los Angeles, Ventura and Santa Barbara counties who canoe, fish, swim, hike, travel, recreate and observe wildlife throughout the Santa Clara River watershed. The unlawful discharge of pollutants by Magic Mountain impairs each of these uses. Thus, the interests of FSCR's members have been, are being, and will continue to be adversely affected by Magic Mountain's failure to comply with its permits and the Clean Water Act.

C. Six Flags Magic Mountain

1. Magic Mountain Operations and Sources of Pollutants

Six Flags Magic Mountain is owned and/or operated by Six Flags Entertainment Corporation; Six Flags Theme Parks, Inc.; and Magic Mountain, LLC (hereinafter collectively referred to as "Magic Mountain Owners and/or Operators"). The Facility, located at 26101 Magic Mountain Parkway in Valencia, California, is an approximately 260-acre amusement park consisting of mechanical theme park rides, amusement attractions, water rides and attractions, restaurants and refreshment stands, landscaped areas, ride and attraction maintenance areas, public restrooms, cement or asphalt walkways (midways), parking lots, vehicle maintenance yards and a shop, a paint shop, a paint storage area, a used engine oil storage area, a food service warehouse, a merchandise warehouse, a "bone yard" where some equipment is stored uncovered, loading docks, a trash compactor, bulk chemical storage tanks, and a waste container for storage of hazardous spent solvents, fueling stations, scrap metal storage areas, and other related facilities.

The industrial operations occurring at the Facility include, but are not limited to: vehicle maintenance; storage and/or handling of scrap metal; carpentry; plumbing; sign painting; surface coating; fiberglassing; loading/unloading of general merchandise and food and beverage materials; transfer of bulk water treatment chemicals (sodium hypochlorite solution and dilute hydrochloric acid); storage, use and disposal of cleaning products, paints, epoxies, resins and other surface coating materials; storage of hazardous spent solvents; transfer and storage of used engine oil; repair of amusement rides using polyester resins and fiberglassing materials; operation of rides, roller coasters, amusement attractions, including games and prize distribution, and water rides/attractions; and grinding of excess materials and metals.

Sources of pollutants associated with the industrial activities at the Facility include, but are not limited to: food service areas, vehicle & equipment fueling areas, the auto shop, the maintenance shop, the trash compactor, the "bone yard," the paint shop, paint storage areas, amusement rides and attractions, amusement game and prize distribution areas, water attractions, landscaping, parking lots, and guest walkways (midway), restroom areas, and waste/hazardous waste storage/disposal areas.

The pollutants associated with industrial operations at the Facility include, but are not limited to copper, zinc, total suspended solids ("TSS"), paper, plastic and rubber goods, amusement game prizes, aerosol cans, miscellaneous trash, fecal coliform, E. Coli, fertilizer, oil and grease, particulate from grinding and sanding, cleaning products, and fugitive and other dust, dirt, and debris.

2. Magic Mountain's Discharge of Pollutants to the Santa Clara River

Magic Mountain discharges pollutants to the Santa Clara River, a water of the United States, from at least three discharge points. These discharges are regulated by two permits issued by the California Regional Water Quality Control Board, Los Angeles Region ("Regional Board"). The Facility's "Individual NPDES Permit" regulates the Facility's point source discharges consisting of irrigation runoff, midway washdown water, water attraction overflow, drainage/overflow from lakes and ponds, as well as some storm water discharges. *See Individual NPDES Permit*, pp. 1, 6. The most recent Individual NPDES Permit for the Facility was issued on February 3, 2011 in Order No. R4-2011-0029.

Magic Mountain also must comply with California's General Storm Water Permit. The Storm Water Permit regulates all of the Facility's industrial storm water that are not regulated by the Facility's Individual NPDES Permit. In February 1993, Magic Mountain submitted a Notice of Intent ("NOI") to obtain coverage for the Facility under the Storm Water Permit. In February 1998, Magic Mountain renewed its coverage for the Facility under the current Storm Water Permit by submitting another Notice of Intent ("NOI"). The 1993 and 1998 NOIs lists the type of business at the Magic Mountain Facility as "Amusement Park" and lists its Standard Industrial Classification code of regulated activity ("SIC Code") as 7996 (Amusement Parks).

The Facility's Individual NPDES Permit describes the three discharge locations as follows:

Discharge Point 001: Discharge Point 001 is an open channel running along the eastern side of the facility, which discharges into the Santa Clara River. The discharges are comprised of overflow from the water attractions in the Facility's Hurricane Harbor and the Facility's lakes and ponds, as well as surface water runoff from irrigation and midway, washwater from the east side of the Facility, main gate driveway, recreational vehicle (RV) parking, and east side general parking, as well as storm water runoff flows from all of these areas. Additionally, an underground pipe collects the Facility's storm water discharges, and discharges through Outfall 001. Individual NPDES Permit at F-6.

Discharge Point 002: Discharge Point 002 is a piped storm drain system that collects and discharges drainage and overflow from Facility lakes and ponds; surface water runoff from Facility irrigation and midway washdown water that includes portions of the backstage and parking lot; and storm water from all these areas and the central and northern area of the Facility between Discharge Point 001 and 003 into the Santa Clara River. *Id.* at F-7.

Discharge Point 003: Discharge Point 003 is an open channel running along the western side of the Facility, which discharges, into the Santa Clara River, drainage and overflow from water attractions, lakes, and ponds in the western area of the Facility; irrigation and midway washdown water from the western area of the Facility, the employee overflow parking lot, and most of the backstage area of the Facility; non-storm water discharges conveyed from Discharge Point 001 and Discharge Point 002 by a drain interceptor system; and storm water from all of these areas in the Facility and from the western area of the Facility.

The receiving water for all of the Facility's discharge points is the Santa Clara River. Magic Mountain has discharged and continues to discharge pollutants unlawfully from the Facility into waters of the United States. As explained below, Magic Mountain is liable and subject to civil penalties for violations of the Facility's Individual NPDES Permit, the Storm Water Permit, and the Clean Water Act.

D. Legal Background

Section 301(a) of the CWA expressly prohibits the "discharge of any pollutant" unless such discharges comply with the terms of any applicable NPDES permit, and sections 301, 302, 307, 308, and 402 of the CWA. 33 U.S.C. §§ 1311(a)(1), 1342. "Discharge of a pollutant" means any "addition of a pollutant to navigable waters from any point source." 33 U.S.C. §

1362(12). Pollutant is defined to include “industrial, municipal, and agricultural waste discharged into water.” 33 U.S.C. § 1362(6). A point source is “any discernable, confined and discrete conveyance,” 33 U.S.C. § 1362(14), and navigable waters are broadly defined as “the waters of the United States.” 33 U.S.C. § 1362(7). NPDES permits include both general permits, which are issued under 40 C.F.R. § 122.28 authorizing a category of discharges under the CWA within a geographical area, and individual permits, which are issued to specific facilities.

NPDES permits must include conditions that will ensure compliance with the CWA. At a minimum, NPDES permits must include technology-based effluent limitations, any more stringent limitations necessary to meet water quality standards, and monitoring and reporting requirements. See 33 U.S.C. §§ 1342, 1311, 1318.

CWA § 402 requires each discharger to meet minimum technology-based treatment requirements. Section 402 states that all permits must meet all applicable requirements under CWA § 301. 33 U.S.C. § 1342(a)(1). Section 301, in turn, requires all discharges to achieve, at a minimum, best practicable control technology (“BPT”). 33 U.S.C. § 1311(b)(1)(a). Discharges of toxic pollutants must be treated pursuant to the best available technology (“BAT”), 33 U.S.C. § 1311(b)(2)(A), and other pollutant discharges must comply with best conventional technology (“BCT”). 33 U.S.C. § 1311(b)(2)(E). Each of these treatment categories is translated into effluent limitations, which must be reflected in permits as restrictions on rates, quantities, and concentrations of pollutants.

In addition to implementing technology-based controls, each point source discharger must achieve “any more stringent limitation necessary to meet water quality standards[.]” 33 U.S.C. § 1311(b)(1)(C). Water quality standards establish the water quality goals for a water body. 40 C.F.R. § 131.2. They serve as the regulatory basis for the establishment of water quality-based controls over point sources, as required under § 301 and § 306 of the CWA. Once water quality standards are established for a particular water body, any NPDES permit authorizing discharges of pollutants into that water body must ensure that the applicable water quality standard will be met. 33 U.S.C. § 1311(b)(1)(C); 40 C.F.R. §§ 122.4(d), 122.4(i), 122.44(d).

Although EPA is the primary administrator of the CWA, § 402 of the CWA authorizes EPA to delegate its authority to states to implement and administer the CWA. 33 U.S.C. § 1342(b). Pursuant to this provision, California has authority to regulate discharges of pollutants by, among other actions, issuing NPDES permits to dischargers. The State Water Resources Control Board and the nine Regional Water Quality Control Boards, including the Los Angeles Regional Water Quality Control Board, Los Angeles Region (“Regional Board”) are the California agencies bearing responsibility for issuing NPDES permits.

The Regional Board issues permits for discharges of both “storm water” and “process wastewater.” Federal regulations define storm water as “storm water runoff, snow melt runoff, and surface runoff and drainage.” 40 C.F.R. § 122.26(b)(13). In contrast, process wastewater is “any water which, during manufacturing or processing, comes into direct contact with or results from the use of any raw material, intermediate product, finished product, byproduct or waste product.” 40 C.F.R. § 122.2. Storm water can become process wastewater if it comes into

contact with the materials, finished product, byproduct, or waste product of a manufacturing process. *Id.* Permits issued for storm water or process wastewater discharges must meet all requirements of sections 402 and 301 of the CWA.

Once regulated by an NPDES permit, discharges must strictly comply with all of the terms and conditions of that permit. Violators are subject to enforcement actions initiated by EPA, states, and citizens. 33 U.S.C. §§ 1319, 1365(a). Section 505 of the CWA authorizes citizens to bring suit against any person, including a corporation, who is alleged to be in violation of an effluent standard or limitation under the CWA. 33 U.S.C. § 1365(a). Effluent limitation is defined broadly to include “a permit or condition thereof issued under [section 402] of this title,” and “any unlawful act under subsection (a) of [section 301] of this title.” 33 U.S.C. § 1365(f). *See also Headwaters, Inc. v. Talent Irrigation District*, 243 F.3d 526 (9th Cir. 2001) (holding that citizens may bring suit against a party discharging pollutants into waters of the United States without a permit). Section 309 of the CWA, 33 U.S.C. § 1319(d), adjusted by 40 C.F.R. § 19.4, provides for civil penalties of up to \$37,500 per day per violation. Violations occurring before January 12, 2009 carry penalties of up to \$32,500 per day of violation.

II. Violations of the Clean Water Act, Individual NPDES Permit, and the Storm Water Permit

As explained above, the discharge of any pollutant to a water of the United States is prohibited unless it is in compliance with NPDES permits. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 126(c)(1); Storm Water Permit, Fact Sheet p. I. In California, any person who discharges storm water and non-storm water associated with industrial activity must comply with the terms of the general Storm Water Permit in order to lawfully discharge pollutants. 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1); Storm Water Permit, Fact Sheet p. I, VII. A failure to comply with or obtain coverage under an NPDES Permit is a violation of the Clean Water Act. Individual NPDES Permit, Attachment D, Section I(A)(1); Storm Water Permit, Section C(1), and Fact Sheet p. I.; 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 126(c)(1).

As explained further below, Magic Mountain has failed and continues to fail to comply with the requirements of the Facility’s Individual NPDES Permit, the Storm Water Permit, and the Clean Water Act. The Coalition places the Magic Mountain on notice of its violations of the Facility’s Individual NPDES Permit, the Storm Water Permit, and the Clean Water Act for each day of violation occurring from April 20, 2007 to the present.

A. Violations of the Individual NPDES Permit and the Clean Water Act

The Individual NPDES Permit for the Magic Mountain Facility governs discharges from the Facility into the Santa Clara River,⁶ including storm water discharges and process wastewater discharges from irrigation runoff, midway washdown, water attraction overflow, drainage

⁶ Individual NPDES Permit, Section I-VI; These discharges include the Facility’s discharges from Discharge Points 001, 002, and 003 (“Discharge Points”)

overflow from lakes and ponds, and other non-storm water discharges (“Discharges”).⁷ These Discharges are subject to the requirements of the Individual NPDES Permit, including, but not limited to, its Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations.⁸

To lawfully discharge storm water and non-storm water into the Santa Clara River, Magic Mountain must comply with the terms of its Individual NPDES Permit. CWA § 301(a), 33 U.S.C. §§ 1311(a) 1342; 40 C.F.R. § 126(c)(1). Magic Mountain’s failure to comply with its Individual NPDES Permit violates the Clean Water Act. Individual NPDES Permit, Attachment D, Section I.A.1.; 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 126(c)(1).

The violations described below are ongoing. As detailed in Section II.C. below, Magic Mountain is subject to penalties for all of these violations of the CWA occurring since April 20, 2007. Additional information, including information in Magic Mountain’s possession, may reveal additional violations, including monitoring, reporting and recordkeeping violations, of the Clean Water Act. This letter covers all such violations occurring within the five years immediately preceding the service of this notice letter to the full extent contemplated by the standard set forth in *Public Interest Research Group of New Jersey v. Hercules*, 50 F.3d 1239 (3d Cir. 1995). *See Community Ass’n for Restoration of the Environment v. Henry Bosma Dairy*, 305 F.3d 943, 950-53 (9th Cir. 2002) (citing *Hercules*).

1. Violations of the Individual NPDES Permit Discharge Prohibitions

Magic Mountain has violated the Discharge Prohibitions set forth in the Facility’s Individual NPDES Permit from at least April 20, 2007 to the present. Discharge Prohibition A limits Magic Mountain’s discharges to “a maximum of 2.35 mgd of drainage/overflow from lakes and ponds, irrigation runoff, midway (walkway through the park) washdown, and storm water runoff through Discharge Point Nos. 001, 002, and 003.” Individual NPDES Permit, p. 12. “The discharge of wastes from accidental spills or other sources is prohibited.” *Id.* Under Discharge Prohibition B, “[d]ischarges of water, materials, thermal wastes, elevated temperature wastes, toxic wastes, deleterious substances, or wastes other than those authorized by this Order to a storm drain system, the Santa Clara River, or other waters of the State, are prohibited. *Id.* Discharge Prohibition C prohibits the discharge of pollutants from creating pollution, contamination or a nuisance as defined by Section 13050 of the Water Code. *Id.* Discharge Prohibition D provides that wastes discharged shall not contain any substances in concentrations toxic to human, animal, plant, or aquatic life. *Id.* Finally, Discharge Prohibition E prohibits the discharge from causing a violation of any applicable water quality standards for the Santa Clara River. *Id.*

i. Violations of Discharge Prohibition A

Discharge Prohibition A of the Individual NPDES Permit explicitly limits the wastes Magic Mountain is authorized to discharge from the Facility exclusively to drainage/overflow from lakes and ponds, irrigation runoff, midway washdown water, and storm water runoff. *See*

⁷ Individual NPDES Permit, Page 1; Section III; Section IV; Attachment F - Fact Sheet, Section II.A., F-4-8; Attachment F, Section IV, F-19-20; Attachment F, Section IV.B.2., F-21-23; Attachment G-Storm Water Pollution Prevention Plan Requirements.

⁸ Individual NPDES Permit, Page 1; Sections I.-VII.

Individual NPDES Permit, p. 12. Solid waste, debris and trash are not included in the specifically enumerated waste streams authorized by Discharge Prohibition A. *See id.* Thus the discharge of any trash, solid waste, or other unauthorized pollutants from Magic Mountain, is a violation of Individual NPDES Permit Discharge Prohibition A.

Magic Mountain is discharging large quantities of trash, including plastics, from Discharge Points 001, 002 and 003 (“Discharge Points”) and/or other points into the Santa Clara River. Coalition investigators have observed, discovered and photographed large amounts of trash, debris, and plastics discharged during storm events from the Magic Mountain’s Discharge Points into the Santa Clara River. The trash and debris discharged from the Magic Mountain Facility during storm events causes and/or contributes to the trash pollution floating in, and deposited within, the Santa Clara River immediately downstream of the Facility’s discharge points, the Santa Clara River Estuary, and the Pacific Ocean.

Moreover, visual observations and photographs demonstrate that significant amounts of trash, including plastic bottles bearing Six Flags Magic Mountain labels, rubber sports balls awarded as prizes at the Facility’s amusement games and attractions and bearing Magic Mountain labels, plastic water bottles sold at the Facility, and aerosol cans from the Facility remain scattered throughout the Santa Clara River downstream of the Discharge Points. This trash is concentrated in and around the earthen channels within the Santa Clara River formed by Magic Mountain’s storm water and non-storm water discharges from the Discharge Points. Photographs and observations by Coalition investigators reveal that these articles of trash exhibit varying degrees of weathering and are dated as recently as 2011 with Magic Mountain labels, indicating that the trash has been deposited at different times, and continues to be deposited, in the Santa Clara River.

Furthermore, visual observations by and information available to the Coalition indicate that the Magic Mountain Facility does not contain sufficient Best Management Practices (“BMPs”) or structural controls to prevent the discharge of trash during storm events and dry weather from the Discharge Points into the Santa Clara River. The documented trash discharges from the Facility, coupled with the presence of the Facility’s fresh trash and weathered trash scattered throughout the Santa Clara River downstream of the Facility’s Discharge Points, along with the Facility’s inadequate BMPs, clearly show that the discharge of trash from the Facility is ongoing and unabated.

ii. Violations of Discharge Prohibition B

The discharge of trash, aluminum, iron, titanium, zinc, and barium from Magic Mountain’s Facility, and the discharge of lead from Discharge Point 002 from Magic Mountain’s Facility, separately violates Discharge Prohibition B, which prohibits “discharges of materials, ...deleterious substances ... or wastes other than those authorized.” *See Id.* Table 1, attached and incorporated by reference, lists the dates, from April 20, 2007, through April 13, 2012, when the Coalition documented unauthorized discharges of aluminum, mercury, titanium, zinc, barium, iron, and lead from the Facility. Each unauthorized discharge constitutes a violation of Discharge Prohibition B.

As discussed above, trash is not an authorized pollutant permitted by the Individual NPDES Permit for discharge from the Facility into the Santa Clara River, thus Discharge Prohibition B also prohibits the discharge of trash. Information available to the Coalition indicates that the Magic Mountain Facility has discharged trash during every significant rain event listed in Exhibit A attached to this letter. Each of these unauthorized discharges of trash is a violation of Discharge Prohibition B.

iii. Violations of Discharge Prohibition C

The discharge of trash also violates Discharge Prohibition C, which prohibits the discharge of pollutants from creating pollution or a nuisance as defined by Section 13050 of the Water Code. *Id.*

a. Magic Mountain's Trash Discharges Create Pollution

Pollution is defined in Section 13050 of the California Water Code as "an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects ... [t]he waters for beneficial uses." As discussed further in section II.A.3.i. below, trash unreasonably affects the waters of the Santa Clara River for beneficial uses, thus its discharge is prohibited.

b. Magic Mountain's Trash Discharges Create Nuisance

As defined in Section 13050 of the California Water Code, nuisance is "anything that meets all of the following criteria: 1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; 2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of annoyance or damage inflicted upon individuals may be unequal; and 3) occurs during, or as a result of, the treatment or disposal of wastes." Cal. Water Code § 13050 (m). Pollution of water constitutes a public nuisance. Water pollution occurring as a result of discharge of wastes in violation of California Water Code Section 13000 (the section including permitting), such as violations of Magic Mountain's Individual NPDES Permit, is a public nuisance *per se*. *Newhall Land and Farming v. Mobile Oil*, 19 Cal. App. 4th 334, 341 (1993).

The Magic Mountain Facility discharges of trash create a nuisance in the Santa Clara River, its Estuary and the Pacific Ocean in violation of Discharge Prohibition C. First, as observed and documented by the Coalition's investigators, the Facility regularly discharges significant amounts of trash, plastics, and debris in the Santa Clara River, which flows to the Santa Clara Estuary and the Pacific Ocean. Some of the trash remains in the Santa Clara River bed and on its banks during dry weather. Second, the trash pollution discharged from the Magic Mountain Facility is a nuisance because (1) it is injurious to the health and indecent or offensive to the senses, (2) it affects an entire community or a neighborhood, and (3) it occurs as a result of the disposal of wastes.

The trash discharged from the Facility into the Santa Clara River, its Estuary, and the Pacific Ocean pollutes these waters and harms marine mammals, birds, fish, and macroinvertebrates either directly, through ingestion, entanglement or smothering, or indirectly,

through changes to habitat and food sources.⁹ Moreover, the presence of trash in the Santa Clara River, its Estuary, and ultimately the Pacific Ocean endangers public health and discourages recreational use of these water bodies by local residents and tourists. “Debris in water bodies can threaten the health of people who use them for wading or swimming.”¹⁰ A Regional Board report found that floating debris that ends up on beaches or in the open ocean “repel[s] visitors away from our beaches and degrad[es] coastal waters.”¹¹ As such, debris “is also a nuisance” because “it is not aesthetically pleasing to the eye, and can also affect tourism if people do not want to spend time at a [waterbody] filled with trash.”¹² As the Regional Board concluded for the Los Angeles River:

[t]he prevention and removal of trash in the Los Angeles River ultimately will lead to improved water quality and protection of aquatic life and habitat, expansion of opportunities for public recreational access, enhancement of public interest in the rivers and public participation in restoration activities, and propagation of the vision of the river as a whole and enhancement of the quality of life of riparian residents.¹³

The Magic Mountain Facility trash pollution is injurious to the health of the people who use, or would use, the Santa Clara River, its Estuary and the Pacific Ocean for wading or swimming or other aquatic recreational activities. Moreover, as directly observed by the Coalition’s investigators, the trash pollution is unsightly and offensive because it persistently litters the bed and banks of the Santa Clara River.

Next, the trash and debris discharged by the Magic Mountain Facility affects multiple communities and neighborhoods because once discharged into the Santa Clara River, it flows downstream, thus affecting all the communities and neighborhoods along the River. Trash that does not flow the entire length of the River, is deposited on the banks in communities downstream of Magic Mountain’s Facility.

Finally, the Magic Mountain trash pollution clearly occurs as a result of the disposal of wastes because, as observed by the Coalition’s investigators, the trash and debris are carried by Magic Mountain’s storm water flows and discharged via the Facility’s outfalls into the Santa Clara River.

For all of these reasons, the trash discharged by the Magic Mountain Facility constitutes a nuisance as defined by the Section 13050 of the California Water Code. Indeed, because as discussed previously, Magic Mountain’s trash discharges violate its Individual NPDES Permit,

⁹ See Interagency Report on Marine Debris Sources, Impacts, Strategies & Recommendations, National Oceanic and Atmospheric Administration (August 2008) at 23.

¹⁰ Los Angeles Regional Water Quality Control Board, Final Staff Report for the Santa Monica Bay Nearshore and Offshore Debris TMDL at 21. ,

¹¹ Trash TMDL for the Los Angeles River Watershed, California Regional Water Quality Control Board Los Angeles Region, Final Staff Report at 16.

¹² Los Angeles Regional Water Quality Control Board, Final Staff Report for the Santa Monica Bay Nearshore and Offshore Debris TMDL at 21.

¹³ Trash TMDL for the Los Angeles River Watershed, California Regional Water Quality Control Board Los Angeles Region, Final Staff Report at 16.

these discharges are a public nuisance *per se*. Consequently, Magic Mountain's discharges of trash pollution through its outfalls violate Discharge Prohibition C.

Similarly, whenever Magic Mountain discharges pollutants that exceed the applicable effluent limits, as described below in section II.A.2., or that cause or contribute to the exceedance of water quality standards, as discussed further in sections II.A.1.v. and II.B.2., Magic Mountain is creating a public nuisance, and thus violating Discharge Prohibition C.

iv. Violations of Discharge Prohibition D

Discharge Prohibition D states, "Wastes discharged shall not contain any substances in concentrations toxic to human, animal, plant, or aquatic life." Magic Mountain has violated and continues to violate Discharge Prohibition D because, as further discussed in section II.A.3.ii. below, the discharges of metals and TSS from the Facility are toxic to human, animal, plant, and/or aquatic life.

v. Violations of Discharge Prohibition E

Discharge Prohibition E provides, "The discharge shall not cause a violation of any applicable water quality standards for receiving waters adopted by the Region Water Board or the State Water Resources Control Board as required by the Federal CWA and regulations adopted thereunder." Reach 5 of the Santa Clara River is impaired for iron, therefore the River in these areas is already in violation of the applicable water quality standard.¹⁴ Because of this, Magic Mountain must meet water quality standards for iron at the end of the discharge point; such a limitation is required in order to avoid causing an exceedance of a water quality standard. As indicated in Tables 1, 3, and 4 attached to this letter, the Coalition has documented high concentrations of iron being discharged from the Facility. Magic Mountain's discharge of iron into a water body that is already impaired for iron constitutes causing a violation of a water quality standard in violation of Discharge Prohibition E. *See Friends of Pinto Creek v. U.S. EPA*, 504 F.3d 1007 (9th Cir. 2007). Further, the Santa Clara River Estuary, and the Santa Clara River Reaches 1 and 3 are impaired for toxicity and, as provided in tables 1, 2, 3, and 4 attached to this letter, Magic Mountain's discharges of toxic metals in high concentrations into the Santa Clara River, which is already impaired for toxicity, constitutes causing a violation of a water quality standard in violation of Discharge Prohibition E. *See Friends of Pinto Creek v. U.S. EPA*, 504 F.3d 1007 (9th Cir. 2007). For non-impairment pollutants, Magic Mountain must meet water quality standards at the edge of the mixing zone. Any time Magic Mountain's discharges exceed these levels, Magic Mountain is causing a violation of a water quality standard, and is thus violating Prohibition E of its Individual NPDES Permit.

2. Violations of the Individual NPDES Permit Effluent Limitations

Not only is Magic Mountain violating the Discharge Prohibitions A, B, C, D, and E, its discharges also routinely exceed the effluent limitations established in Section IV of the

¹⁴ See Los Angeles Region Integrated Report Clean Water Act Section 305(b) Report and Section 303(d) List of Impaired Waters, Appendix F, "2008 Clean Water Act 303(d) List of Water Quality Limited Sections," available at: http://www.waterboards.ca.gov/losangeles/water_issues/programs/303d/2008_integrated_report_303%28d%29_list.shtml (last visited 1 September 2011).

Individual Permit. These effluent limitations specify the type, amount, and concentration of specific pollutants that Magic Mountain is allowed to discharge from the Facility. Discharges that exceed these limitations are violations of the Individual Permit and the CWA.

Magic Mountain has violated and continues to violate the Effluent Limitations for Discharge Points 001, 002, and 003 set forth in Section IV.A. of the Facility's Individual NPDES Permit ("Effluent Limitation(s)") from at least April 20, 2007 to the present for numerous pollutants, including fecal coliform, E. Coli, TSS, oil and grease, lead, and copper. Table 2, attached and incorporated by reference, lists the dates, from April, 2007, through April 13, 2012, on which Magic Mountain has exceeded the parameters in its permit. Each exceedance constitutes a violation of Magic Mountain's Individual NPDES Permit and the CWA.

Every day Magic Mountain violates the Facility's Individual NPDES Permit Effluent Limitation is a separate and distinct violation of the Facility's Individual NPDES Permit and the CWA. *See, e.g., Natural Resources Defense Council v. Southwest Marine*, 236 F.3d 985 (9th Cir. 2000). Magic Mountain routinely has violated the Individual Permit's Effluent Limitations since at least April 20, 2007. These violations are ongoing and the Coalition will include additional violations as information becomes available.

3. Receiving Water Limitation Violations

Magic Mountain's Individual NPDES Permit contains several limitations related to the Receiving Water, the Santa Clara River. Pursuant to Receiving Water Limitation A(6), the Facility's waste discharge shall not cause "[t]he presence of visible, floating, suspended or deposited macroscopic particulate ..." in the Santa Clara River. Individual NPDES Permit, p. 20. Receiving Water Limitation A(8) prohibits the Facility's waste discharge from causing "[s]uspended or settleable materials ... in amounts that cause nuisance or adversely affect any designated beneficial use" of the Santa Clara River. *Id.* Further, under Receiving Water Limitation A(16), the Facility's waste discharge shall not "[d]egrade surface water communities and populations including vertebrate, invertebrate, and plant species" in the Santa Clara River. *Id.* at 21. Receiving Water Limitation A(18) specifically requires that the Facility's waste discharge shall not "[c]reate nuisance, or adversely effect [sic] beneficial uses of the receiving water. *Id.* Finally, under Receiving Water Limitation A(19) the Magic Mountain Facility discharges may not cause "[v]iolation of any applicable water quality standards for receiving waters adopted by the Regional Water Board or State Water Board." *Id.*

Magic Mountain's polluted storm water discharges have violated Receiving Water Limitations set forth in the Facility's Individual NPDES Permit from at least April 20, 2007 to the present during every significant rain event.¹⁵

i. Discharge of Trash

The Facility's discharge of trash has violated Receiving Water Limitations A(6), A(8),

¹⁵ Attached and incorporated by reference as Exhibit A is a table that sets forth significant rain events (defined by EPA as a rainfall event generating 0.1 inches or more) that have occurred at the Facility in the past five years, resulting in storm water containing pollutants discharging to area receiving waters. Exhibit A was created using daily and hourly rain data collected from NEWHALL S FC32CE (NOAA COOP ID 046162).

A(16), A(18), and A(19) set forth in the Facility's Individual NPDES Permit during every significant rain event from at least April 20, 2007 to the present.

The Regional Board Basin Plan lists the Beneficial Uses for waters in the Santa Clara River Watershed ("Beneficial Uses"). The designated Beneficial Uses for the portions of the Santa Clara River that receive trash discharged from the Magic Mountain Facility are listed in footnote 5 above. The Regional Board previously determined, in its analysis of a similar waterway, that these Beneficial Uses are adversely affected by trash, and that an appropriate amount of trash to be permitted in a waterway to protect those beneficial uses is zero.¹⁶ Specifically, Regional Board staff found that "[s]mall and large floatables can inhibit the growth of aquatic vegetation, decreasing spawning areas and habitats for fish and other living organisms," and that "[w]ildlife living in rivers and in riparian areas can be harmed by ingesting or becoming entangled in floating trash."¹⁷ Coastal birds, many of which feed in and along the Santa Clara River and its Estuary,¹⁸ are known to ingest small debris items along with food.¹⁹ Ingestion of trash can lead to malnutrition, starvation, damage to the digestive tract and/or stomach lining, or blockage of airways.²⁰ The plastic and synthetic rubber trash that Magic Mountain discharges is especially harmful to the Santa Clara River ecosystem because of its tendency to float, disperse, and persist in the environment for many years without biodegrading.²¹

Because the Santa Clara River is a tributary to the Pacific Ocean, some of Magic Mountain's discharge of trash will end up polluting costal waters, adversely affecting marine mammals, birds, and fish either directly, through ingestion, entanglement or smothering, or indirectly, through changes to habitat.²² It is estimated that approximately 100,000 marine mammals die every year from entanglement or ingestion of floatables.²³ The cleanup of trash that washes up on shore, via mechanical beach cleaning machines, poses an additional threat to nesting birds, aquatic vegetation, and other type of aquatic life.²⁴ Moreover, the presence of trash in the Santa Clara River, its Estuary, and ultimately the Pacific Ocean discourages recreational use of these water bodies by local residents and tourists. A Regional Board report found that floating debris that ends up on beaches or in the open ocean "repel[s] visitors away from our beaches and degrad[es] coastal waters."²⁵

¹⁶ See Amendment to the Water Quality Control Plan – Los Angeles Region to incorporate the TMDL for Trash in the Los Angeles River Watershed, California Regional Quality Control Board Los Angeles Region, Attachment A to Resolution No. 07-012 (Aug. 9, 2007).

¹⁷ Trash TMDL for the Los Angeles River Watershed, California Regional Water Quality Control Board Los Angeles Region (Jul. 27, 2007), p. 15.

¹⁸ Santa Clara River Enhancement & Management Plan, AMEC Earth and Environmental (2005), p. 74.

¹⁹ Interagency Report on Marine Debris Sources, Impacts, Strategies & Recommendations, National Oceanic and Atmospheric Administration (August 2008), p. 24.

²⁰ Draft Assessing and Monitoring Floatable Debris, US Environmental Protection Agency (2001), p. 1-2.

²¹ *Id.* at 1-1.

²² Interagency Report on Marine Debris Sources, Impacts, Strategies & Recommendations, National Oceanic and Atmospheric Administration (August 2008), p. 23.

²³ Draft Assessing and Monitoring Floatable Debris, US Environmental Protection Agency (2001), p. 1-3.

²⁴ *Id.* at 24.

²⁵ Trash TMDL for the Los Angeles River Watershed, California Regional Water Quality Control Board Los Angeles Region (Jul. 27, 2007), p. 16

Because trash adversely affects the designated Beneficial Uses of the receiving waters of Magic Mountain's discharge, and the Facility has been discharging and continues to discharge significant quantities of trash into the Santa Clara River, Magic Mountain has caused suspended or settleable materials in quantities that cause nuisance or adversely affect designated beneficial use to be present in the Santa Clara River, and has degraded the River's surface water communities and populations including vertebrate, invertebrate, and plant species, in violation of the Receiving Water Limitations A(8) and (16) of the Facility's Individual NPDES Permit.

Coalition investigators' visual observations and photographs demonstrate that Magic Mountain's discharge has caused the presence of visible, floating, and suspended or deposited macroscopic particulate (trash) in the Santa Clara River, in violation of Receiving Water Limitation A(6) of the Facility's Individual NPDES Permit.

Moreover, as discussed in Section II.A.1.iii.b. above, the discharge of trash from the Magic Mountain Facility's outfalls into the Santa Clara River constitutes a nuisance. As a result, Magic Mountain's trash discharges are a separate violation of the Receiving Water Limitation A(18), which prohibits the Facility's discharges from creating a nuisance.

Finally, Receiving Water Limitation A(19) of Magic Mountain's Individual NPDES Permit prohibits discharges that cause violations of any applicable water quality standards for a receiving water adopted by the Regional Water Board. Individual NPDES Permit at 21. Thus, exceedances of Basin Plan Water Quality Standards are violations of Receiving Water Limitation A(19) of the Facility's Individual NPDES Permit and the Clean Water Act. As discussed above Magic Mountain is discharging significant quantities of trash, in excess of the Basin Plan's narrative water quality standard that "[w]aters shall not contain floating materials, including solids ... in concentrations that cause nuisance or adversely affect beneficial uses." Basin Plan, p. 3-9.

Magic Mountain has consistently discharged, and continues to discharge trash in violation of the Facility's Individual NPDES Permit Receiving Water Limitations from at least April 20, 2007 to the present during every significant rain event. Each occurrence of trash discharged constitutes a separate and distinct violation of Magic Mountain's Individual NPDES Permit and the CWA. These violations are ongoing, and the Coalition will include additional violations as more information becomes available.

ii. Discharge of Metals, TSS, and Pollutants Causing Discoloration

Magic Mountain's storm water discharge of metals, TSS, and pollutants causing discolorations of the Santa Clara River has violated and continues to violate Receiving Water Limitations A(6), A(8), A(16), A(18) and A(19) set forth in the Facility's Individual NPDES Permit from at least April 20, 2007 to the present.

Pollutants such as TSS, metals, trash, Oil & Grease, E. Coli, fecal coliform, which can negatively effect pH, chemical oxygen demand ("COD"), toxicity, and water color are known to have adverse effects on aquatic life and their habitats in the Santa Clara River. Specifically, discharges containing TSS can have sub-lethal impacts on the Southern California Steelhead and other aquatic life in the Santa Clara River. Studies have shown that juveniles of several species

of salmonids suffer multiple sub-lethal effects such as reduced survival, displacement, and avoidance impacts at concentrations measuring greater than 90 mg/L, 110 mg/L, and 100mg/L of TSS respectively.²⁶ Other studies have shown that at TSS concentrations of 80 mg/L, the density of macroinvertebrate populations, a crucial food source for Southern California Steelhead, decrease by sixty percent.²⁷ In addition, impairments caused by TSS such as dark coloration of discharges can obstruct sunlight penetration in a waterways water column, which impedes aquatic plant growth, as well as visibility for aquatic species. Thus, storm water discharges from the Facility that contain TSS in levels equal to or greater than TSS levels known to adversely impact the Santa Clara River's aquatic species, including salmonids and macroinvertebrates, and the Santa Clara River's Beneficial Uses constitute violations of Receiving Water Limitations A(8), A(16) and A(19) of Magic Mountain's Individual NPDES Permit and the Clean Water Act.

The storm water sampling data collected by Magic Mountain and reported in its Annual Storm Water Monitoring Reports to the Regional Board from 2007-2011 ("Annual Reports"), and additional sampling data collected by the Coalition, consistently document storm water discharges with TSS concentrations in exceedance of levels known to have sub-lethal effects on salmonids, and in concentrations violating the Basin Plan's narrative water quality standard that "[w]aters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial uses". Basin Plan, p. 3-16.

Magic Mountain Facility's storm water discharges also contain elevated concentrations of metals such as copper, zinc, and lead, which can be acutely toxic and/or have sub-lethal impacts on the Southern California Steelhead and other aquatic life in the Santa Clara River; that degrade surface water communities and populations including vertebrate, invertebrate, and plant species; that adversely affect the Santa Clara River's beneficial uses in violation of the Basin Plan water quality standards; and that are in violation of applicable water quality standards for a receiving water adopted by the Regional Water Board such as the California Toxics Rule ("CTR") and Basin Plan. For example, the sub-lethal effects of dissolved copper on salmonids have been documented at concentrations measuring less than 5 micrograms per liter. Further, studies have shown that juveniles of several species of salmonids suffer sub-lethal effects at concentrations measuring less than two micrograms per liter of dissolved copper. The storm water discharges from Magic Mountain's Facility that exceed levels known to adversely impact juvenile salmonids, other aquatic species in the Santa Clara River, or the Santa Clara River's Beneficial Uses constitute violations of Receiving Water Limitations A(16), A(18) and A(19). In addition, storm water discharges from the Facility with high TSS concentrations cause the presence of visible, floating, suspended or deposited macroscopic particulate in the Santa Clara River in violation of Receiving Water Limitation A(6).

Table 3, attached and incorporated by reference, lists the dates, from April, 20 2007, through the present, on which Magic Mountain has discharged storm water with high TSS concentrations and/or elevated metals concentrations, in violation of Receiving Water Limitations of the Facility's Individual Permit.

²⁶ Effects of Turbidity and Suspended Solids on Salmonids, J. Bash; C. Berman, S. Bolton; Center for Streamside Studies, University of Washington (November 2001).

²⁷ See The Gold Book: Quality Criteria for Water, U.S. Environmental Protection Agency, May 1986, available at <http://water.epa.gov/scitech/swguidance/waterquality/standards/current/index.cfm#gold> (last visited August, 7 2011).

Further, as demonstrated by Magic Mountain's SWPPP and the Coalition's visual observations, there are, and historically have been, inadequate treatment or source control BMPs for copper or other metals at the Facility. Therefore, storm water discharges containing equivalent concentrations of metals as reported in Magic Mountain's and the Coalition's storm water samples from the Facility's Discharge Points have occurred and are continuing to occur since at least 2007.

In addition, photographs and visual observations recorded and submitted to the Regional Board in Magic Mountain's Annual Reports, and the Coalition's own photographs, document storm water discharges with discolorations that impair the Santa Clara River's recreational and ecological Beneficial Uses in violation of the Basin Plan's narrative water quality standard that "[w]aters shall be free of coloration that causes nuisance or adversely affects beneficial uses." Basin Plan, p. 3-9. For example, Magic Mountain's 2010-11 Annual Report indicates that the Facility's storm water discharge into the Santa Clara River was brown and cloudy, and the Coalition's photographic documentation evidenced that the storm water discharged from Discharge Point 001 on October 5, 2011, was yellowish brown. These violations of the Basin Plan are violations of Receiving Water Limitation A(19) of Magic Mountain's Individual NPDES Permit.

Magic Mountain has discharged and continues to discharge storm water in violation of Receiving Water Limitations of the Facility's Individual Permit during every significant rain event occurring since at least April 20, 2007. Each storm water discharge in violation of Receiving Water Limitations constitutes a separate and distinct violation of Magic Mountain's Individual NPDES Permit and the CWA. These violations are ongoing, and the Coalition will include additional violations as information becomes available.

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

Section VI.C.3 of the Facility's Individual NPDES Permit requires dischargers to develop and implement a SWPPP that meets all of the requirements enumerated in Attachment G of the Individual Permit. The objective of the SWPPP requirements is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges and authorized non-storm water discharges from the Facility, and implement site-specific BMPs to reduce or prevent pollutants in those discharges. Individual NPDES Permit, Attachment G, Section II. To ensure its effectiveness, Magic Mountain must evaluate the SWPPP on an annual basis pursuant to the requirements of Attachment G, Section IX of the Individual Permit, and must revise it as necessary to ensure compliance with the Individual Permit. *Id.*, Attachment G, Section X.C.

Attachment G, Sections I-X of the Individual Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, areas of actual and potential pollutant contact, and areas of industrial activity; a list of significant materials handled and stored at the site; a description of potential pollutant sources including

industrial processes, material handling and storage areas; dust and particulate generating activities; a description of significant spills and leaks; a list of all non-storm water discharges and their sources; a description of locations where soil erosion may occur; an assessment of potential pollutant sources at the facility; and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

Magic Mountain has not developed and/or implemented a SWPPP that meets the requirements of the Facility's Individual Permit, in violation of Section VI.C.3 and Attachment G, Sections I–X of the Individual Permit. For example, Magic Mountain has failed and continues to fail to develop and/or implement adequate BMPs to prevent the exposure and subsequent discharge of pollutants, including trash, metals and TSS, from the Facility at levels that comply with the provisions of the Individual NPDES Permit and at levels that do not impair the beneficial uses or cause discoloration of the Santa Clara River. Further, despite continuing violations of the Storm Water Permit, Magic Mountain Facility has not revised the SWPPP as necessary to ensure compliance with the Individual Permit, in violation of Attachment G, Sections IX and X of the Individual Permit.

Every day Magic Mountain operates the Facility with an inadequately developed and/or implemented SWPPP is a separate and distinct violation of the Facility's Individual NPDES Permit and the CWA. *See, e.g., Natural Resources Defense Council v. Southwest Marine*, 236 F.3d 985 (9th Cir. 2000). Magic Mountain has been in daily and continuous violation of the Individual Permit's SWPPP requirements every day since at least April 20, 2007. These violations are ongoing and the Coalition will include additional violations as information becomes available.

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

With certain limited exceptions, any person who discharges storm water associated with industrial activity in California must comply with the terms of the Storm Water Permit in order to lawfully discharge pollutants. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1); Storm Water Permit, Fact Sheet p. VII. Storm water discharges from Magic Mountain's Facility constitute discharges of storm water associated with industrial activity because the operation of Magic Mountain's approximately 260-acre Facility is an industrial activity classified under the Standard Industrial Classification code of regulated activity ("SIC Code") as 7996 - Amusement Parks, and the industrial activities at the Facility fall within the specified industrial categories in 40 C.F.R. § 122.26(b)(14) (Federal Register, Volume 55 on Pages 48065-66) and in Attachment I of the Storm Water Permit. The Storm Water permit regulates storm water discharges from the Magic Mountain Facility associated with industrial activity that are not regulated by the Facility's Individual NPDES Permit, including the discharge of storm water containing high levels of zinc, aluminum, iron, and other constituents. Thus, Magic Mountain must also comply with the applicable terms of the Storm Water Permit in order to lawfully discharge pollutants in its storm water discharges into the Santa Clara River. *See* CWA 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 126(c)(1); Storm Water Permit, Fact Sheet p. I, VII. A failure by Magic Mountain to comply with the Storm Water Permit is a violation of the Clean Water Act. Storm Water Permit, Section C(1), Fact Sheet p. I.; 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 126(c)(1).

1. Discharges of Storm Water from the Magic Mountain Facility in Violation of Effluent Limitation B(3) of the Storm Water Permit, and the Clean Water Act

Effluent Limitation (B)(3) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve BAT for toxic pollutants²⁸ and BCT for conventional pollutants.²⁹ EPA Benchmarks are relevant and objective standards to evaluate whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B(3) of the Storm Water Permit.³⁰

Sampling data collected by Magic Mountain and submitted to the Regional Board shows levels of copper, zinc and TSS significantly above the EPA Benchmarks. In addition, sampling data collected by the Coalition shows that discharges from the Magic Mountain Facility contain concentrations of copper, zinc, aluminum, iron, and TSS above the EPA Benchmarks. Table 4, attached and incorporated by reference, lists the dates, from April 20, 2007 through April 13, 2012, on which Magic Mountain has discharged storm water containing amounts and concentrations of metals and TSS that exceeded EPA Benchmarks, which demonstrates Magic Mountain has not implemented BMPs at its Facility that achieve compliance with the BAT/BCT standards. The Coalition's visual observations and photographic evidence further confirm that Magic Mountain has failed and continues to fail to develop and/or implement BMPs to prevent the exposure of pollutants to storm water and to prevent the discharge of polluted storm water from the Magic Mountain Facility in violation of Effluent Limitation B(3) of the Storm Water Permit. Storm water discharges from the Magic Mountain Facility have violated, and continue to violate Effluent Limitation B(3) of the Storm Water Permit during each significant rain event, dates of which are identified in Exhibit A attached hereto. Every day storm water is discharged from the Magic Mountain Facility in violation of Effluent Limitation (B)(3) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and the CWA. These discharge violations are ongoing and the Coalition will update the number and dates of violation as additional information and data becomes available.

2. Discharges of Contaminated Storm Water from the Magic Mountain Facility in Violation of Receiving Water Limitations C(1) and C(2) of the Storm Water Permit, and the Clean Water Act

Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface water that adversely impact human health or the environment. As described in detail above, Magic Mountain Facility's storm water discharges contain elevated concentrations of pollutants including copper, lead, TSS and zinc, which can be acutely toxic and/or have sub-lethal impacts on the Southern California Steelhead and other aquatic life in the Santa Clara River. Storm water discharges from the Facility that contain TSS, copper, or other pollutants in levels equal to or greater than levels

²⁸ Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.

²⁹ Conventional pollutants are listed at 40 C.F.R. § 401.16 and include biological oxygen demand, total suspended solids, oil and grease, pH, and fecal coliform.

³⁰ See Multi-Sector Permit (2008), Fact Sheet, p. 106; *see also* Storm Multi-Sector Permit, 65 Federal Register 64839 (2000).

known to adversely impact the Santa Clara River's aquatic species, including salmonids and macroinvertebrates, and the environment constitute violations of the CWA and the Receiving Water Limitation C(1) of the Storm Water Permit.

Receiving Water Limitation C(2) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of an applicable water quality standards, such as CTR criteria or the Basin Plan.³¹ Storm Water Permit at 4. Thus, discharges that contain pollutants in excess of the CTR criteria³² or Basin Plan Water Quality Standards, violate Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act. As described in detail above, and in the attached and incorporated Tables, storm water sampling data collected by Magic Mountain and reported in its Annual Reports and additional sampling data available to the Coalition, regularly document discharges from the Facility with concentrations of metals and TSS at levels that cause or contribute to exceedances of applicable water quality standards. Further, visual observations by Coalition investigators confirm that the Facility discharges significant amounts of trash into the Santa Clara River, thereby violating the Basin Plan narrative water quality standard that "[w]aters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial uses." Basin Plan at 3-16; *see also* Sections II.A.1. and II.A.3.i. above. Finally, according to Magic Mountain's SWPPP and the Coalition's visual observations, there have been inadequate changes to treatment or source control BMPs for metals in the last five years.

Accordingly, storm water discharges from the Magic Mountain Facility to the Santa Clara River surface waters contain pollutants that adversely impact human health or the environment and/or cause or contribute to a violation of an applicable water quality standard in violation of Receiving Water Limitations C(1) and C(2), respectively, during every significant rain event occurring since at least April 20, 2007. *See* Exhibit A. Each of these discharges is a separate and distinct violation of the Storm Water Permit and the CWA. These discharge violations are ongoing and the Coalition will update the number and dates of violation when additional information and data becomes available.

3. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan

Section A(1) and Provision E(2) of the Storm Water Permit requires dischargers to develop and implement a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water Permit. The objective of the SWPPP requirements is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Magic Mountain Facility, and to implement site-specific BMPs to reduce or prevent pollutants in those discharges. Storm Water

³¹ Water Quality Standards are pollutant concentration levels determined by the State Water Resources Control Board and the EPA to be protective of the Beneficial Uses of the receiving waters. Discharges above Water Quality Standards contribute to the impairment of the receiving waters' Beneficial Uses. Applicable Water Quality Standards include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 ("CTR").

³² For example, storm water samples collected by Coalition investigators from Discharge Point 001 on October 5, 2011, evidence dissolved copper at .081 mg/L, which violates the CTR limit.

Permit, Section A(2). To ensure its effectiveness, Magic Mountain must evaluate the SWPPP on an annual basis pursuant to the requirements of Section A(9), and must revise it as necessary to ensure compliance with the Storm Water Permit. *Id.*, Sections A(9), (10).

Sections A(3) – A(10) of the Storm Water Permit set forth the requirements for a SWPPP. Among other things, the SWPPP must include: a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, areas of actual and potential pollutant contact, and areas of industrial activity (*see* Section A(4)); a list of significant materials handled and stored at the site (*see* Section A(5)); and, a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources and a description of locations where soil erosion may occur, (*see* Section A(6)). Sections A(7) and (8) require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

Magic Mountain has not developed and/or implemented a SWPPP that meets the requirements of the Storm Water Permit, in violation of Section A and Provision E(2) of the Storm Water Permit. For example, Magic Mountain has failed and continues to fail to develop and/or implement adequate BMPs to prevent the exposure and subsequent discharge of pollutants, including trash; metals such as zinc, lead, and copper; and TSS, from the Facility at levels that achieve EPA Benchmarks and at levels that do not impair the beneficial uses of the Santa Clara River. Further, despite continuing violations of the Storm Water Permit, Magic Mountain Facility has not revised the SWPPP as necessary to ensure compliance with the Storm Water Permit, in violation of Sections A(9) and (10) of the Storm Water Permit.

Every day the Magic Mountain Owners and/or Operators operate the Facility with an inadequately developed and/or implemented SWPPP is a separate and distinct violation of the Storm Water Permit and the CWA. *See, e.g., Natural Resources Defense Council v. Southwest Marine*, 236 F.3d 985 (9th Cir. 2000). Magic Mountain has been in daily and continuous violation of the Individual Permit's SWPPP requirements every day since at least April 20, 2007. These violations are ongoing and the Coalition will include additional violations as information becomes available.

4. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program

Section B(1) and Provision E(3) of the Storm Water Permit require facility operators to develop and implement an adequate Monitoring and Reporting Program ("MRP") by October 1, 1992, or prior to the commencement of industrial activities, that meets all of the requirements of the Storm Water Permit. The primary objective of the MRP is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* Storm Water Permit, Section B(2). The MRP must therefore ensure that BMPs are effectively

reducing and/or eliminating pollutants at the facility, and are evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *Id.*

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

Sections B(5) and (7) of the Storm Water Permit require dischargers to visually observe and samples of storm water discharges from all locations where storm water is discharged. Facility operators, including the Magic Mountain Owners and/or Operators, are required to collect samples from at least two qualifying storm events each wet season, including one set of samples during the first storm event of the wet season. *See* Storm Water Permit, Sections B(5). Required samples must be collected by Facility operators from all discharge points and during the first hour of the storm water discharge from the Facility. *Id.* Sampling of stored or contained storm water shall occur any time the stored or contained storm water is released. *Id.* Storm water samples shall be analyzed for TSS, pH, specific conductance, total organic carbon or oil and grease, toxic chemicals and other pollutants that are likely to be present in significant quantities in the discharges. *Id.*, Section B(5)(c).

Magic Mountain has not developed, implemented and/or revised an MRP for its Facility as required by the Storm Water Permit. Specifically, Magic Mountain has routinely failed to collect storm water samples from the first qualifying storm event of the wet season and has routinely failed to collect storm water samples from the first hour of the storm water discharge from the Facility.³³ Magic Mountain thus has failed to collect two samples from all discharge locations as required by the Storm Water Permit. *See* Storm Water Permit, Sections B(5)(a).

In addition, Magic Mountain has not developed and/or implemented an adequate MRP in violation of Section B(5)(c) of the Storm Water Permit because Magic Mountain failed to analyze the storm water samples from the 2007-08, 2008-09, 2009-10, and 2010-11 wet seasons for all toxic chemicals and other pollutants likely to be present in significant quantities in the Facility's storm water discharges, such as aluminum, iron, and lead. Moreover, the Facility's MRP does not contain a mandatory Storm Water Permit requirement to sample the Facility's storm water

³³ Exhibit B, attached and incorporated by reference, sets forth dates on which qualifying rain events during which samples could have been taken occurred at the Magic Mountain Facility in the past five (5) years. A qualifying rain event for sampling purposes is defined in the Storm Water Permit as a discharge that occurs during working hours and that is preceded by at least (3) three working days without a storm water discharge. Storm Water Permit, Section B(5)(b)

discharges for these constituents. The failure of the Facility's MRP to require Magic Mountain to analyze the storm water discharges from the Facility for aluminum, iron, and lead is yet another failure to collect and analyze samples in compliance with the Storm Water Permit. *See* Storm Water Permit, Sections B(5)(c).

Further, in each of the past five wet seasons, Magic Mountain failed to record visual observations of storm water discharges from one storm event per month during the wet season, as required by Section B(4) of the Storm Water Permit. Qualifying storm events occurred at the Magic Mountain Facility, but visual observations of storm water discharges were not made, during each of the months identified in Exhibit B.³⁴ Each of these failures constitutes a violation of Section B(4) of the Storm Water Permit and the Clean Water Act. Because Magic Mountain failed to take visual observations of storm water discharges as required during these months, they also failed to document the presence of any floating or suspended material, oil and grease, discolorations, turbidity, trash, odor and the source of any pollutants, in violation of Section B(4) of the Storm Water Permit.

Magic Mountain's failure to conduct sampling, monitoring, and reporting as required by the Storm Water Permit demonstrates that they have failed to develop, implement and/or revise an MRP that complies with the requirements of Section B and Provision E(3) of the Storm Water Permit.

Every day that Magic Mountain conducts operations in violation of the specific monitoring and reporting requirements of the Storm Water Permit, or with an inadequately developed and/or implemented MRP, is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The Magic Mountain Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's MRP requirements every day since at least April 20, 2007. These violations are ongoing, and the Coalition will include additional violations as information becomes available.

C. Penalties for Violations of the Clean Water Act and Relief the Coalition Seeks

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five years prior to the date upon which the Coalition serves its notice of intent to file suit. These provisions of law authorize civil penalties of up to \$32,500 per day per violation for all Clean Water Act violations between April 20, 2007 and January 12, 2009, and \$37,500 per day per violation for all Clean Water Act violations after January 12, 2009. In addition to civil penalties, the Coalition will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. §1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, Section 505(d) of the Clean

³⁴ Exhibit B, sets forth months during which rain events occurred in which observations of discharges should have been taken in the past five (5) years. A qualifying rain event for visual observations is defined in the Storm Water Permit as a discharge that occurs during working hours and that is preceded by at least (3) three days without a storm water discharge. Storm Water Permit, Section B(4)(b)

Water Act, 33 U.S.C. § 1365(d), permits prevailing parties or substantially prevailing parties to recover costs, including attorneys' and experts' fees associated with this enforcement action.

III. Conclusion

Upon expiration of the 60-day notice period, the Coalition intends to file a citizen suit under Section 505(a) of the Clean Water Act for the above-referenced violations, and for any similar violations that occur after the date of this notice letter.

During the 60-day notice period, however, the Coalition is willing to discuss effective remedies for the violations noted in this letter, and actions that might be taken to ensure future compliance with the Clean Water Act. Moreover, the 60-day notice period would be the appropriate time for Magic Mountain to inform the Coalition of any steps it has already taken to remedy the violations discussed in this notice. If you wish to pursue such discussions in the absence of litigation, it is suggested that you initiate those discussions immediately. If good faith negotiations are not occurring, at the close of the 60-day notice period the Coalition will move forward expeditiously with litigation.

Counsel representing the Coalition in this matter are listed below. Please direct all communications to Ventura Coastkeeper's and SMBK's Staff Attorney at:

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Sincerely,



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Wishtoyo Foundation and its Ventura Coastkeeper Program



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TABLE 1 - VIOLATIONS OF DISCHARGE PROHIBITION B

Date	Sampler	Outfall	Parameter	Total or Dissolved Fraction	Units	Concentration in Discharge
4/20/2007	MM	EFF-001	Zinc	Total	mg/L	0.39
4/20/2007	MM	EFF-003	Zinc	Total	mg/L	0.74
11/30/2007	MM	EFF-003	Zinc	Total	mg/L	0.14
2/20/2008	MM	EFF-002	Zinc	Total	mg/L	0.21
2/5/2009	MM	EFF-001	Zinc	Total	mg/L	0.31
2/5/2009	MM	EFF-002	Zinc	Total	mg/L	0.18
2/5/2009	MM	EFF-003	Zinc	Total	mg/L	0.30
1/17/2010	MM	EFF-001	Zinc	Total	mg/L	0.24
1/17/2010	MM	EFF-003	Zinc	Total	mg/L	0.29
1/26/2010	MM	EFF-003	Zinc	Total	mg/L	0.34
12/17/2010	MM	EFF-003	Zinc	Total	mg/L	0.22
2/25/2011	MM	EFF-003	Zinc	Total	mg/L	0.22
10/5/2011	Coalition	EFF-001	Aluminum	Total	mg/L	46.00
10/5/2011	Coalition	EFF-002	Aluminum	Total	mg/L	65.00
10/5/2011	Coalition	EFF-003	Aluminum	Total	mg/L	120.00
10/5/2011	Coalition	EFF-001	Barium	Total	mg/L	0.031
10/5/2011	Coalition	EFF-001	Barium	Total	mg/L	0.450
10/5/2011	Coalition	EFF-002	Barium	Total	mg/L	0.650
10/5/2011	Coalition	EFF-003	Barium	Total	mg/L	1.400
10/5/2011	Coalition	EFF-001	Iron	Total	mg/L	35.0
10/5/2011	Coalition	EFF-002	Iron	Total	mg/L	51.0
10/5/2011	Coalition	EFF-003	Iron	Total	mg/L	53.0
10/5/2011	Coalition	EFF-001	Titanium	Total	mg/L	0.0213
10/5/2011	Coalition	EFF-001	Titanium	Total	mg/L	0.763
10/5/2011	Coalition	EFF-002	Titanium	Total	mg/L	0.933
10/5/2011	Coalition	EFF-003	Titanium	Total	mg/L	1.140
10/5/2011	Coalition	EFF-002	Lead	Total	mg/L	0.063
10/5/2011	Coalition	EFF-001	Zinc	Total	mg/L	0.19
10/5/2011	Coalition	EFF-001	Zinc	Total	mg/L	0.13
10/5/2011	Coalition	EFF-002	Zinc	Total	mg/L	0.54
10/5/2011	Coalition	EFF-003	Zinc	Total	mg/L	0.62
10/5/2011	Coalition	EFF-001	Zinc	Total	mg/L	0.18
12/12/2011	Coalition	EFF-001	Aluminum	Total	mg/L	177.00
12/12/2011	Coalition	EFF-001	Iron	Total	mg/L	182.0
12/12/2011	Coalition	EFF-001	Zinc	Total	mg/L	0.41

MM = Magic Mountain Self-Reporting

TABLE 1 - VIOLATIONS OF DISCHARGE PROHIBITION B

Date	Sampler	Outfall	Parameter	Total or Dissolved Fraction	Units	Concentration in Discharge
4/13/2012	Coalition	EFF-001	Zinc	Total	mg/L	0.096
4/13/2012	Coalition	EFF-002	Zinc	Total	mg/L	0.28
4/13/2012	Coalition	EFF-003	Zinc	Total	mg/L	0.35
4/13/2012	Coalition	EFF-001	Aluminum	Total	mg/L	3.50
4/13/2012	Coalition	EFF-002	Aluminum	Total	mg/L	9.10
4/13/2012	Coalition	EFF-003	Aluminum	Total	mg/L	8.20
4/13/2012	Coalition	EFF-001	Iron	Total	mg/L	4.8
4/13/2012	Coalition	EFF-002	Iron	Total	mg/L	14.0
4/13/2012	Coalition	EFF-003	Iron	Total	mg/L	13.0
4/13/2012	Coalition	EFF-002	Lead	Total	mg/L	0.016
4/13/2012	Coalition	EFF-001	Barium	Total	mg/L	0.050
4/13/2012	Coalition	EFF-002	Barium	Total	mg/L	0.120
4/13/2012	Coalition	EFF-003	Barium	Total	mg/L	0.140
4/13/2012	Coalition	EFF-001	Titanium	Total	mg/L	0.131
4/13/2012	Coalition	EFF-002	Titanium	Total	mg/L	0.252
4/13/2012	Coalition	EFF-003	Titanium	Total	mg/L	0.295
4/13/2012	Coalition	EFF-001	Mercury	Total	ng/L	20.0
4/13/2012	Coalition	EFF-002	Mercury	Total	ng/L	31.0
4/13/2012	Coalition	EFF-003	Mercury	Total	ng/L	23.0
4/13/2012	Coalition	EFF-001	Mercury	Dissolved	ng/L	8.4
4/13/2012	Coalition	EFF-002	Mercury	Dissolved	ng/L	6.8
4/13/2012	Coalition	EFF-003	Mercury	Dissolved	ng/L	6.1

MM = Magic Mountain Self-Reporting

TABLE 2 - VIOLATIONS OF EFFLUENT LIMITATIONS

Date	Sampler	Outfall	Parameter	Total or Dissolved Fraction	Units	NPDES Permit Limit	Concentration in Discharge
4/20/2007	MM	EFF-001	Copper	Total	mg/L	0.0392	0.083
4/20/2007	MM	EFF-002	Copper	Total	mg/L	0.0392	0.041
4/20/2007	MM	EFF-003	Copper	Total	mg/L	0.0392	0.260
4/20/2007	MM	EFF-001	TSS	Total	mg/L	75	420
4/20/2007	MM	EFF-003	TSS	Total	mg/L	75	220
2/20/2008	MM	EFF-003	TSS	Total	mg/L	75	82
1/22/2009	MM	EFF-002	Copper	Total	mg/L	0.0392	0.040
2/5/2009	MM	EFF-002	Copper	Total	mg/L	0.0392	0.500
2/5/2009	MM	EFF-003	Copper	Total	mg/L	0.0392	0.070
2/5/2009	MM	EFF-001	TSS	Total	mg/L	75	240
2/5/2009	MM	EFF-003	TSS	Total	mg/L	75	120
1/17/2010	MM	EFF-001	Copper	Total	mg/L	0.0392	0.040
1/17/2010	MM	EFF-003	Copper	Total	mg/L	0.0392	0.070
1/17/2010	MM	EFF-001	TSS	Total	mg/L	75	110
1/17/2010	MM	EFF-003	TSS	Total	mg/L	75	86
1/26/2010	MM	EFF-002	Copper	Total	mg/L	0.0392	0.040
1/26/2010	MM	EFF-003	Copper	Total	mg/L	0.0392	0.100
12/17/2010	MM	EFF-002	Copper	Total	mg/L	0.0392	0.040
12/17/2010	MM	EFF-003	Copper	Total	mg/L	0.0392	0.070
2/25/2011	MM	EFF-002	Copper	Total	mg/L	0.0392	0.040
2/25/2011	MM	EFF-003	Copper	Total	mg/L	0.0392	0.100
2/25/2011	MM	EFF-003	TSS	Total	mg/L	75	130
9/8/2011	MM	EFF-003	E. Coli	N/A	MPN/100mL	235	300
10/5/2011	Coalition	EFF-001	Copper	Total	mg/L	0.0392	0.120
10/5/2011	Coalition	EFF-002	Copper	Total	mg/L	0.0392	0.330
10/5/2011	Coalition	EFF-003	Copper	Total	mg/L	0.0392	0.210
10/5/2011	Coalition	EFF-001	Copper	Total	mg/L	0.0392	0.085
10/5/2011	Coalition	EFF-001	TSS	Total	mg/L	75	98
10/5/2011	Coalition	EFF-001	TSS	Total	mg/L	75	2700
10/5/2011	Coalition	EFF-002	TSS	Total	mg/L	75	5300
10/5/2011	Coalition	EFF-003	TSS	Total	mg/L	75	7300
10/5/2011	Coalition	EFF-003	Lead	Total	mg/L	0.021	0.072
10/5/2011	Coalition	EFF-001	Lead	Total	mg/L	0.021	0.022
10/13/2011	MM	EFF-003	Oil & Grease	N/A	mg/L	10	16.000
10/13/2011	MM	EFF-003	Fecal Coliform	N/A	MPN/100mL	400	>=1600
10/13/2011	MM	EFF-003	E. Coli	N/A	MPN/100mL	235	>=1600
12/12/2011	Coalition	EFF-001	Copper	Total	mg/L	0.0392	0.114
12/12/2011	Coalition	EFF-001	TSS	Total	mg/L	75	7750
12/12/2011	Coalition	EFF-001	Lead	Total	mg/L	0.021	0.042
4/13/2012	Coalition	EFF-001	Copper	Total	mg/L	0.0392	0.045

MM = Magic Mountain Self-Reporting

TABLE 2 - VIOLATIONS OF EFFLUENT LIMITATIONS

Date	Sampler	Outfall	Parameter	Total or Dissolved Fraction	Units	NPDES Permit Limit	Concentration in Discharge
4/13/2012	Coalition	EFF-002	Copper	Total	mg/L	0.0392	0.069
4/13/2012	Coalition	EFF-003	Copper	Total	mg/L	0.0392	0.061
4/13/2012	Coalition	EFF-001	TSS	Total	mg/L	75	1000
4/13/2012	Coalition	EFF-002	TSS	Total	mg/L	75	980
4/13/2012	Coalition	EFF-003	TSS	Total	mg/L	75	1700

MM = Magic Mountain Self-Reporting

Table 3 - Violations of Receiving Water Limitations

Date	Sampler	Outfall	Parameter	Total or Dissolved Fraction	Units	NPDES Permit Limit	Concentration in Discharge
4/20/2007	MM	EFF-001	Copper	Total	mg/L	0.0392	0.083
4/20/2007	MM	EFF-002	Copper	Total	mg/L	0.0392	0.041
4/20/2007	MM	EFF-003	Copper	Total	mg/L	0.0392	0.260
4/20/2007	MM	EFF-001	TSS	Total	mg/L	75	420
4/20/2007	MM	EFF-003	TSS	Total	mg/L	75	220
4/20/2007	MM	EFF-001	Zinc	Total	mg/L	N/A	0.39
4/20/2007	MM	EFF-003	Zinc	Total	mg/L	N/A	0.74
11/30/2007	MM	EFF-003	Zinc	Total	mg/L	N/A	0.14
2/20/2008	MM	EFF-002	Zinc	Total	mg/L	N/A	0.21
2/20/2008	MM	EFF-003	TSS	Total	mg/L	75	82
1/22/2009	MM	EFF-002	Copper	Total	mg/L	0.0392	0.040
2/5/2009	MM	EFF-002	Copper	Total	mg/L	0.0392	0.500
2/5/2009	MM	EFF-003	Copper	Total	mg/L	0.0392	0.070
2/5/2009	MM	EFF-001	TSS	Total	mg/L	75	240
2/5/2009	MM	EFF-003	TSS	Total	mg/L	75	120
2/5/2009	MM	EFF-001	Zinc	Total	mg/L	N/A	0.31
2/5/2009	MM	EFF-002	Zinc	Total	mg/L	N/A	0.18
2/5/2009	MM	EFF-003	Zinc	Total	mg/L	N/A	0.30
1/17/2010	MM	EFF-001	Copper	Total	mg/L	0.0392	0.040
1/17/2010	MM	EFF-003	Copper	Total	mg/L	0.0392	0.070
1/17/2010	MM	EFF-001	TSS	Total	mg/L	75	110
1/17/2010	MM	EFF-001	Zinc	Total	mg/L	N/A	0.24
1/17/2010	MM	EFF-003	Zinc	Total	mg/L	N/A	0.29
1/17/2010	MM	EFF-003	TSS	Total	mg/L	75	86
1/26/2010	MM	EFF-003	Zinc	Total	mg/L	N/A	0.34
1/26/2010	MM	EFF-002	Copper	Total	mg/L	0.0392	0.040
1/26/2010	MM	EFF-003	Copper	Total	mg/L	0.0392	0.100
12/17/2010	MM	EFF-002	Copper	Total	mg/L	0.0392	0.040
12/17/2010	MM	EFF-003	Copper	Total	mg/L	0.0392	0.070
12/17/2010	MM	EFF-003	Zinc	Total	mg/L	N/A	0.22
2/25/2011	MM	EFF-002	Copper	Total	mg/L	0.0392	0.040
2/25/2011	MM	EFF-003	Copper	Total	mg/L	0.0392	0.100
2/25/2011	MM	EFF-003	TSS	Total	mg/L	75	130
2/25/2011	MM	EFF-003	Zinc	Total	mg/L	N/A	0.22
9/8/2011	MM	EFF-003	E. Coli	N/A	MPN/100mL	235	300
10/5/2011	Coalition	EFF-001	Copper	Total	mg/L	0.0392	0.120
10/5/2011	Coalition	EFF-002	Copper	Total	mg/L	0.0392	0.330
10/5/2011	Coalition	EFF-003	Copper	Total	mg/L	0.0392	0.210
10/5/2011	Coalition	EFF-001	Copper	Total	mg/L	0.0392	0.085

MM = Magic Mountain Self-Reporting

Table 3 - Violations of Receiving Water Limitations

Date	Sampler	Outfall	Parameter	Total or Dissolved Fraction	Units	NPDES Permit Limit	Concentration in Discharge
10/5/2011	Coalition	EFF-001	TSS	Total	mg/L	75	98
10/5/2011	Coalition	EFF-001	TSS	Total	mg/L	75	2700
10/5/2011	Coalition	EFF-002	TSS	Total	mg/L	75	5300
10/5/2011	Coalition	EFF-003	TSS	Total	mg/L	75	7300
10/5/2011	Coalition	EFF-003	Lead	Total	mg/L	0.021	0.072
10/5/2011	Coalition	EFF-001	Lead	Total	mg/L	0.021	0.022
10/5/2011	Coalition	EFF-001	Aluminum	Total	mg/L	N/A	46.00
10/5/2011	Coalition	EFF-002	Aluminum	Total	mg/L	N/A	65.00
10/5/2011	Coalition	EFF-003	Aluminum	Total	mg/L	N/A	120.00
10/5/2011	Coalition	EFF-001	Barium	Total	mg/L	N/A	0.031
10/5/2011	Coalition	EFF-001	Barium	Total	mg/L	N/A	0.450
10/5/2011	Coalition	EFF-002	Barium	Total	mg/L	N/A	0.650
10/5/2011	Coalition	EFF-003	Barium	Total	mg/L	N/A	1.400
10/5/2011	Coalition	EFF-001	Iron	Total	mg/L	N/A	35.0
10/5/2011	Coalition	EFF-002	Iron	Total	mg/L	N/A	51.0
10/5/2011	Coalition	EFF-003	Iron	Total	mg/L	N/A	53.0
10/5/2011	Coalition	EFF-001	Titanium	Total	mg/L	N/A	0.0213
10/5/2011	Coalition	EFF-001	Titanium	Total	mg/L	N/A	0.763
10/5/2011	Coalition	EFF-002	Titanium	Total	mg/L	N/A	0.933
10/5/2011	Coalition	EFF-003	Titanium	Total	mg/L	N/A	1.14
10/5/2011	Coalition	EFF-002	Lead	Total	mg/L	N/A	0.063
10/5/2011	Coalition	EFF-001	Zinc	Total	mg/L	N/A	0.19
10/5/2011	Coalition	EFF-001	Zinc	Total	mg/L	N/A	0.13
10/5/2011	Coalition	EFF-002	Zinc	Total	mg/L	N/A	0.54
10/5/2011	Coalition	EFF-003	Zinc	Total	mg/L	N/A	0.62
10/5/2011	Coalition	EFF-001	Zinc	Total	mg/L	N/A	0.18
10/13/2011	MM	EFF-003	Oil & Grease	N/A	mg/L	10	16.0
10/13/2011	MM	EFF-003	Fecal Coliform	N/A	MPN/100mL	400	>=1600
10/13/2011	MM	EFF-003	E. Coli	N/A	MPN/100mL	235	>=1600
12/12/2011	Coalition	EFF-001	Copper	Total	mg/L	0.0392	0.114
12/12/2011	Coalition	EFF-001	TSS	Total	mg/L	75	7750
12/12/2011	Coalition	EFF-001	Lead	Total	mg/L	0.021	0.0416
12/12/2011	Coalition	EFF-001	Aluminum	Total	mg/L	N/A	177.00
12/12/2011	Coalition	EFF-001	Iron	Total	mg/L	N/A	182.0
12/12/2011	Coalition	EFF-001	Zinc	Total	mg/L	N/A	0.41
4/13/2012	Coalition	EFF-001	Copper	Total	mg/L	0.0392	0.045
4/13/2012	Coalition	EFF-002	Copper	Total	mg/L	0.0392	0.069
4/13/2012	Coalition	EFF-003	Copper	Total	mg/L	0.0392	0.061

MM = Magic Mountain Self-Reporting

Table 3 - Violations of Receiving Water Limitations

Date	Sampler	Outfall	Parameter	Total or Dissolved Fraction	Units	NPDES Permit Limit	Concentration in Discharge
4/13/2012	Coalition	EFF-001	TSS	Total	mg/L	75	1000
4/13/2012	Coalition	EFF-002	TSS	Total	mg/L	75	980
4/13/2012	Coalition	EFF-003	TSS	Total	mg/L	75	1700
4/13/2012	Coalition	EFF-001	Zinc	Total	mg/L	N/A	0.096
4/13/2012	Coalition	EFF-002	Zinc	Total	mg/L	N/A	0.28
4/13/2012	Coalition	EFF-003	Zinc	Total	mg/L	N/A	0.35
4/13/2012	Coalition	EFF-001	Aluminum	Total	mg/L	N/A	3.50
4/13/2012	Coalition	EFF-002	Aluminum	Total	mg/L	N/A	9.10
4/13/2012	Coalition	EFF-003	Aluminum	Total	mg/L	N/A	8.20
4/13/2012	Coalition	EFF-001	Iron	Total	mg/L	N/A	4.8
4/13/2012	Coalition	EFF-002	Iron	Total	mg/L	N/A	14.0
4/13/2012	Coalition	EFF-003	Iron	Total	mg/L	N/A	13.0
4/13/2012	Coalition	EFF-002	Lead	Total	mg/L	N/A	0.016
4/13/2012	Coalition	EFF-001	Barium	Total	mg/L	N/A	0.050
4/13/2012	Coalition	EFF-002	Barium	Total	mg/L	N/A	0.120
4/13/2012	Coalition	EFF-003	Barium	Total	mg/L	N/A	0.140
4/13/2012	Coalition	EFF-001	Titanium	Total	mg/L	N/A	0.131
4/13/2012	Coalition	EFF-002	Titanium	Total	mg/L	N/A	0.252
4/13/2012	Coalition	EFF-003	Titanium	Total	mg/L	N/A	0.295
4/13/2012	Coalition	EFF-001	Mercury	Total	ng/L	N/A	20.0
4/13/2012	Coalition	EFF-002	Mercury	Total	ng/L	N/A	31.0
4/13/2012	Coalition	EFF-003	Mercury	Total	ng/L	N/A	23.0
4/13/2012	Coalition	EFF-001	Mercury	Dissolved	ng/L	N/A	8.4
4/13/2012	Coalition	EFF-002	Mercury	Dissolved	ng/L	N/A	6.8
4/13/2012	Coalition	EFF-003	Mercury	Dissolved	ng/L	N/A	6.1

MM = Magic Mountain Self-Reporting

Table 4 - Exceedences of EPA Benchmarks

Date	Sampler	Outfall	Parameter	Total or Dissolved Fraction	Units	* U.S. EPA Benchmark	Concentration in Discharge
4/20/2007	MM	EFF-001	Copper	Total	mg/L	0.0332	0.083
4/20/2007	MM	EFF-002	Copper	Total	mg/L	0.0332	0.041
4/20/2007	MM	EFF-003	Copper	Total	mg/L	0.0332	0.260
4/20/2007	MM	EFF-001	TSS	Total	mg/L	100	420
4/20/2007	MM	EFF-003	TSS	Total	mg/L	100	220
4/20/2007	MM	EFF-001	Zinc	Total	mg/L	0.26	0.39
4/20/2007	MM	EFF-003	Zinc	Total	mg/L	0.26	0.74
11/30/2007	MM	EFF-003	Copper	Total	mg/L	0.0332	0.037
1/22/2009	MM	EFF-002	Copper	Total	mg/L	0.0332	0.040
2/5/2009	MM	EFF-002	Copper	Total	mg/L	0.0332	0.500
2/5/2009	MM	EFF-003	Copper	Total	mg/L	0.0332	0.070
2/5/2009	MM	EFF-001	TSS	Total	mg/L	100	240
2/5/2009	MM	EFF-003	TSS	Total	mg/L	100	120
2/5/2009	MM	EFF-001	Zinc	Total	mg/L	0.26	0.31
2/5/2009	MM	EFF-003	Zinc	Total	mg/L	0.26	0.30
1/17/2010	MM	EFF-001	Copper	Total	mg/L	0.0332	0.040
1/17/2010	MM	EFF-003	Copper	Total	mg/L	0.0332	0.070
1/17/2010	MM	EFF-001	TSS	Total	mg/L	100	110
1/17/2010	MM	EFF-003	Zinc	Total	mg/L	0.26	0.29
1/26/2010	MM	EFF-002	Copper	Total	mg/L	0.0332	0.040
1/26/2010	MM	EFF-003	Copper	Total	mg/L	0.0332	0.100
1/26/2010	MM	EFF-003	TSS	Total	mg/L	100	130
1/26/2010	MM	EFF-003	Zinc	Total	mg/L	0.26	0.34
12/17/2010	MM	EFF-002	Copper	Total	mg/L	0.0332	0.040
12/17/2010	MM	EFF-003	Copper	Total	mg/L	0.0332	0.070
2/25/2011	MM	EFF-002	Copper	Total	mg/L	0.0332	0.040
2/25/2011	MM	EFF-003	Copper	Total	mg/L	0.0332	0.100
2/25/2011	MM	EFF-003	TSS	Total	mg/L	100	130
10/5/2011	Coalition	EFF-001	Copper	Total	mg/L	0.0332	0.120
10/5/2011	Coalition	EFF-002	Copper	Total	mg/L	0.0332	0.330
10/5/2011	Coalition	EFF-003	Copper	Total	mg/L	0.0332	0.210
10/5/2011	Coalition	EFF-001	Copper	Total	mg/L	0.0332	0.085
10/5/2011	Coalition	EFF-001	TSS	Total	mg/L	100	2700
10/5/2011	Coalition	EFF-002	TSS	Total	mg/L	100	5300
10/5/2011	Coalition	EFF-003	TSS	Total	mg/L	100	7300
10/5/2011	Coalition	EFF-002	Zinc	Total	mg/L	0.26	0.54
10/5/2011	Coalition	EFF-003	Zinc	Total	mg/L	0.26	0.62
10/5/2011	Coalition	EFF-001	Aluminum	Total	mg/L	0.75	46.00
10/5/2011	Coalition	EFF-002	Aluminum	Total	mg/L	0.75	65.00
10/5/2011	Coalition	EFF-003	Aluminum	Total	mg/L	0.75	120.00

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* The USEPA Benchmarks provided in this table for copper and zinc are derived using a hardness concentration of 250+ mg/L. The use of a hardness value of 250+ mg/L is based on the findings in the Facility's Individual NPDES permit for the hardness of Santa Clara River receiving waters adjacent to the Facility during storm events. If future sampling results indicate that the hardness of the Santa Clara River during storm events is less than 250 mg/L, the Coalition reserves the right to use the hardness concentrations from those sampling results in determining future exceedances of USEPA Benchmarks and additional past exceedances of USEPA Benchmarks.

Table 4 - Exceedences of EPA Benchmarks

Date	Sampler	Outfall	Parameter	Total or Dissolved Fraction	Units	* U.S. EPA Benchmark	Concentration in Discharge
10/5/2011	Coalition	EFF-001	Iron	Total	mg/L	1	35.0
10/5/2011	Coalition	EFF-002	Iron	Total	mg/L	1	51.0
10/5/2011	Coalition	EFF-003	Iron	Total	mg/L	1	53.0
12/12/2011	Coalition	EFF-001	Copper	Total	mg/L	0.0332	0.114
12/12/2011	Coalition	EFF-001	TSS	Total	mg/L	100	7750
12/12/2011	Coalition	EFF-001	Zinc	Total	mg/L	0.26	0.41
12/12/2011	Coalition	EFF-001	Aluminum	Total	mg/L	0.75	177.00
12/12/2011	Coalition	EFF-001	Iron	Total	mg/L	1	182.0
4/13/2012	Coalition	EFF-001	Copper	Total	mg/L	0.0332	0.045
4/13/2012	Coalition	EFF-002	Copper	Total	mg/L	0.0332	0.069
4/13/2012	Coalition	EFF-003	Copper	Total	mg/L	0.0332	0.061
4/13/2012	Coalition	EFF-001	TSS	Total	mg/L	100	1000
4/13/2012	Coalition	EFF-002	TSS	Total	mg/L	100	980
4/13/2012	Coalition	EFF-003	TSS	Total	mg/L	100	1700
4/13/2012	Coalition	EFF-002	Zinc	Total	mg/L	0.26	0.28
4/13/2012	Coalition	EFF-003	Zinc	Total	mg/L	0.26	0.35
4/13/2012	Coalition	EFF-001	Aluminum	Total	mg/L	0.75	3.50
4/13/2012	Coalition	EFF-002	Aluminum	Total	mg/L	0.75	9.10
4/13/2012	Coalition	EFF-003	Aluminum	Total	mg/L	0.75	8.20
4/13/2012	Coalition	EFF-001	Iron	Total	mg/L	1	4.8
4/13/2012	Coalition	EFF-002	Iron	Total	mg/L	1	14.0
4/13/2012	Coalition	EFF-003	Iron	Total	mg/L	1	13.0

MM = Magic Mountain Self Reporting

* The USEPA Benchmarks provided in this table for copper and zinc are derived using a hardness concentration of 250+ mg/L. The use of a hardness value of 250+ mg/L is based on the findings in the Facility's Individual NPDES permit for the hardness of Santa Clara River receiving waters adjacent to the Facility during storm events. If future sampling results indicate that the hardness of the Santa Clara River during storm events is less than 250 mg/L, the Coalition reserves the right to use the hardness concentrations from those sampling results in determining future exceedences of USEPA Benchmarks and additional past exceedences of USEPA Benchmarks.

Exhibit A: Rain Table - Number of Days with Rain Above .1 Inches**Station Name: NEWHALL S FC32CE (NOAA COOP ID 046162)****Will update with remaining 2012 data when data becomes available**

YEAR	MO	DA	Total Rain (Inches)
2007	2	11	0.16
2007	2	19	0.24
2007	2	22	0.32
2007	4	20	0.64
2007	9	21	0.23
2007	9	22	0.75
2007	10	13	0.16
2007	11	30	0.34
2007	12	6	0.12
2007	12	7	0.31
2007	12	18	0.58
2007	12	19	0.32
2008	1	4	3.44
2008	1	6	0.52
2008	1	22	0.24
2008	1	23	1.41
2008	1	24	2.36
2008	1	25	2.37
2008	1	26	0.75
2008	1	27	2.11
2008	1	28	0.51
2008	2	3	0.2
2008	2	21	0.12
2008	2	22	0.12
2008	2	23	0.16
2008	2	24	0.24
2008	10	20	0.12
2008	11	1	0.2
2008	11	25	0.24
2008	11	26	1.06
2008	12	15	1.14
2008	12	25	0.32
2009	1	23	0.28
2009	2	5	0.92
2009	2	6	0.95

YEAR	MO	DA	Total Rain (Inches)
2009	2	7	0.28
2009	2	9	0.36
2009	2	13	0.32
2009	2	16	1.79
2009	2	17	0.24
2009	3	4	0.5
2009	3	22	0.16
2009	10	13	1.47
2009	10	14	0.94
2009	12	7	1
2009	12	10	0.47
2009	12	11	0.36
2009	12	12	1.32
2009	12	13	0.28
2010	1	17	0.44
2010	1	18	1.98
2010	1	19	0.97
2010	1	20	2.47
2010	1	21	1.49
2010	1	22	0.43
2010	2	5	0.95
2010	2	6	0.74
2010	2	9	0.2
2010	2	19	0.12
2010	2	27	1.46
2010	3	6	0.32
2010	4	5	0.48
2010	4	11	0.82
2010	4	12	0.24
2010	4	20	0.12
2010	10	6	0.2
2010	10	19	0.4
2010	10	20	0.12
2010	10	30	0.63
2010	12	20	0.64
2010	12	21	0.32

Exhibit A: Rain Table - Number of Days with Rain Above .1 Inches
Station Name: NEWHALL S FC32CE (NOAA COOP ID 046162)
Will update with remaining 2012 data when data becomes available

YEAR	MO	DA	Total Rain (Inches)
2011	1	2	0.15
2011	1	3	0.48
2011	2	16	0.48
2011	2	18	1.22
2011	2	19	0.19
2011	2	25	1.03
2011	2	26	0.12
2011	3	19	0.15
2011	3	20	7.01
2011	3	21	0.04
2011	3	23	0.16
2011	3	24	0.43
2011	3	25	0.35
2011	5	17	0.36
2011	10	5	0.98
2011	11	4	0.07
2011	11	6	0.35
2011	11	12	0.27
2011	11	20	0.94
2011	12	12	0.94
2012	1	21	0.27
2012	1	23	0.35

Exhibit B: Rain Table –Qualifying Rain Events During Business Hours**Station Name: NEWHALL S FC32CE (NOAA COOP ID 046162)****Will update with remaining 2012 data when data becomes available**

YEAR	MO	DA	Total Rain (Inches)	Day of Week
2007	2	11	0.16	Sun
2007	2	19	0.24	M
2007	4	20	0.64	Fri
2007	9	21	0.23	Fri
2007	10	13	0.16	Sat
2007	11	30	0.34	Fri
2007	12	6	0.12	Th
2007	12	18	0.58	Tu
2008	1	4	3.44	Fri
2008	1	22	0.24	Tues
2008	2	3	0.2	Sat
2008	2	21	0.12	Thurs
2008	10	20	0.12	Mon
2008	11	1	0.2	Sat
2008	11	25	0.24	Tues
2008	12	15	1.14	Mon
2008	12	25	0.32	Thurs
2009	1	23	0.28	Fri
2009	2	5	0.92	Thurs
2009	2	13	0.32	Fri
2009	3	4	0.5	Wed
2009	3	22	0.16	Sun
2009	10	13	1.47	Tues
2009	12	7	1	Mon
2010	1	17	0.44	Sun
2010	2	5	0.95	Fri
2010	2	19	0.12	Fri
2010	2	27	1.46	Sat

YEAR	MO	DA	Total Rain (Inches)	Day of Week
2010	3	6	0.32	Sat
2010	4	5	0.48	Mon
2010	4	11	0.82	Sun
2010	4	20	0.12	Tues
2010	10	6	0.2	Wed
2010	10	19	0.4	Tues
2010	10	20	0.12	Wed
2010	10	30	0.63	Sat
2010	12	20	0.64	Mon
2011	1	2	0.15	Sun
2011	2	16	0.48	Wed
2011	2	25	1.03	Fri
2011	3	19	0.15	Sat
2011	5	17	0.36	Tues
2011	10	5	0.98	Wed
2011	11	6	0.35	Sun
2011	11	12	0.27	Sat
2011	11	20	0.94	Sun
2011	12	12	0.94	Mon
2012	1	21	0.27	Sat