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**BEFORE THE HEARING BOARD OF THE
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

In the Matter of

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,

Petitioner,

vs.

LOS ANGELES CITY SANITATION
BUREAU, HYPERION WATER
RECLAMATION PLANT

[Facility ID No. 800214]

Respondent.

Case No. 1212-40

**[PROPOSED] FINDINGS AND
DECISION FOR A STIPULATED
ORDER FOR ABATEMENT**

South Coast AQMD Rule 402 and Health and
Safety Code section 41700

Hearing Date: September 6, 8, 2022

Time: 9:00 a.m.

Place: Hearing Board
South Coast Air Quality
Management District
21865 Copley Drive
Diamond Bar, CA 91765

FINDINGS AND DECISION OF THE HEARING BOARD

This Petition for a Stipulated Order for Abatement (“Petition”) was heard on September 6 and September 8, 2022, pursuant to notice and accordance with the provisions of the California Health and Safety Code section 40823 and South Coast AQMD Rule 812. The following members of the Hearing Board were present: Cynthia Verdugo-Peralta, Chair; Robert Pearman, Vice-Chair;

1 Mohan Balagopalan; Allan Bernstein, DPM; Micah Ali. Petitioner, Executive Officer of the South
2 Coast Air Quality Management District (“South Coast AQMD” or “Petitioner”), was represented
3 by Mary Reichert, Senior Deputy District Counsel, and Erika Chavez, Senior Deputy District
4 Counsel. Respondent City of Los Angeles, Department of Public Works, Bureau of Sanitation
5 (“Respondent” or “LA Sanitation”) was represented by Adena Hopenstand, Deputy City Attorney,
6 City of Los Angeles. The parties have stipulated to issuance of this order. The public was given the
7 opportunity to testify. Evidence was received and the matter was submitted. The Hearing Board
8 finds and decides as follows: The Hearing Board finds that GOOD CAUSE exists to issue the
9 Stipulated Order for Abatement. This finding of good cause is based on the following:

10 1. Petitioner is a body corporate and politic established and existing pursuant to Health
11 and Safety Code §40000, et seq. and §40400, et seq., and is the sole and exclusive local agency
12 with the responsibility for comprehensive air pollution control in the South Coast Air Basin.

13 2. Respondent LA Sanitation operates the Hyperion Water Reclamation Plant
14 (“Hyperion”), a wastewater treatment facility subject to the jurisdiction of the South Coast AQMD.
15 Hyperion is located in southwest Los Angeles at 12000 Vista Del Mar, Playa Del Rey, CA 90293.
16 Its Facility ID Number is 800214.

17 3. **South Coast AQMD Rule 402 and California Health and Safety Code (H&S**
18 **Code”) Section 41700** prohibit the discharge, from any source whatsoever, such quantities of air
19 contaminants or other material which causes injury, detriment, nuisance, or annoyance to any
20 considerable number of persons or the public, or which cause, or have the natural tendency to
21 cause, injury or damage to business or property.

22 4. South Coast AQMD alleges that Respondent is unable to contain the sewage odors
23 at Hyperion and cannot conduct operations at the wastewater treatment plant without being in
24 violation of District Rule 402.

25 5. To date in 2022, South Coast AQMD has received more than 1,100 complaints of
26 an odor nuisance from the public, with Hyperion as the alleged source. Complaints include odor
27 descriptions of sewage.

1 6. South Coast AQMD Inspectors have investigated the complaints, traced many of
2 them back to Hyperion, and confirmed Hyperion as the source of the odors on numerous
3 occasions. Since June 2022, South Coast AQMD has issued 11 Notices of Violation (“NOVs”)
4 against Respondent for violating South Coast AQMD Rule 402 and H&S Code section 41700.

5 7. In the month of August 2022, South Coast AQMD received more than 350
6 complaints alleging Hyperion as the source of an odor nuisance. Since September 2, 2022, the date
7 of the last NOV, South Coast AQMD has continued to receive complaints of sewage odors. South
8 Coast AQMD Inspectors continue to investigate and have confirmed Hyperion as the source of the
9 odors on several occasions.

10 8. Respondent has agreed to stipulate to issuance of this Order for Abatement pursuant
11 to South Coast AQMD Rule 806(b) and California Health & Safety Code § 42451(b).

12 9. This Stipulated Order for Abatement represents a compromise between the Parties
13 and does not serve as an admission of liability or guilt as to any of the violations alleged herein.
14 South Coast AQMD Rule 806(b) and H&S Code § 42451(b) permit the Hearing Board to issue a
15 stipulated order for abatement upon the terms and conditions set forth in the stipulated Proposed
16 Findings and Decision without making findings regarding: (a) whether Respondent is in violation
17 of H&S Code § 41700, or any South Coast AQMD rule or regulation; (b) whether the order will
18 not constitute a taking of property without due process of law; and (c) whether the order results in
19 closing an otherwise lawful business, such closing would not be without a corresponding benefit in
20 reducing air contaminants. The Hearing Board does not make any of finding whether Respondent
21 is or was in violation of H&S Code§ 41700 or South Coast AQMD Rule 402.

22 10. Respondent states that it can comply with the conditions set forth below. The
23 reporting requirements and time limits set forth in the conditions below have been justified.

CONCLUSIONS

25 1. The parties have stipulated to issuance of this Order for Abatement pursuant to South
26 Coast AQMD Rule 806(b) and California Health & Safety Code § 42451(b).

27 2. The issuance of this stipulated Order for Abatement following a fully noticed hearing
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1 will not constitute a taking of property without due process of law. If the issuance of this stipulated
2 Order for Abatement results in the closing or elimination of an otherwise lawful business, such
3 closing would not be without a corresponding benefit in reducing air contaminants.

4 3. This stipulated Order for Abatement is not intended to be, nor does it act as a variance,
5 and Respondent remains subject to all rules and regulations of the District, and with all applicable
6 provisions of California law.

7 **ORDER**

8 THEREFORE, based on the foregoing and good cause appearing, the Hearing Board
9 hereby orders Respondent to immediately cease and desist from violating Rule 402, or in the
10 alternative, comply with the following conditions:

11 1. Respondent shall create and implement, within sixty (60) days of the issuance of
12 this Order, their own complaint response program. The program shall, at a minimum, consist of the
13 following:

- 14 a. Notify the public regarding the complaint response program, including, but not
15 limited to, email announcements sent to community members and a permanent
16 display on the Facility’s dedicated website.
- 17 b. 24-Hour hotline number handled by a live operator. All complaint information
18 shall be documented and maintained in a digital format that is secured, backed up,
19 and retrievable for analysis. The information will be made available to South Coast
20 AQMD personnel upon request. All complainants shall be advised that they may
21 file a complaint with South Coast AQMD by telephone at 1-800-CUT-SMOG (1-
22 800-288-7664), on the agency website (www.aqmd.gov), or using the agency’s
23 mobile app.
- 24 c. Installation of an odor complaint contact sign that provides the 24-hour hotline
25 number and 1-800-CUT-SMOG, and meets all of the following requirements:
 - 26 i. The sign shall be installed within 20 feet of the main entrance to the
27 Facility;

- ii. The dimensions of the sign shall be at least 48 inches wide by 48 inches tall;
 - iii. Lettering on the sign shall be at least 4 inches tall;
 - iv. Lettering color shall contrast with the sign background;
 - v. The lower edge of the sign shall be located between 6 and 8 feet above grade; and
 - vi. The sign shall be unobstructed and clearly visible to a person outside the Facility property.
- d. Respondent shall investigate all complaints within one hour of receipt.
- e. Respondent shall document and maintain the following information:
- i. Date and time complaint received.
 - ii. Complainant name, address, and phone number.
 - iii. Complaint description.
 - iv. Employee who investigated complaint, and date and time complainant contacted.
 - v. Verification of odors at location identified by complainant.
 - vi. Wind direction.
 - vii. Odor description.
 - viii. Odor intensity (0 – 5 scale: 0 = no odor detected; 1 = very light odor; 2 = light odor, distinguishable; 3 = moderate odor, very distinguishable; 4 = strong odor, very distinguishable, irritable; 5 = very strong odor, very distinguishable, overpowering and intolerable)
 - ix. Findings - Potential sources, location within the facility, particular equipment and/or process, and root cause analysis.
 - x. Provide written report to complainant summarizing findings within 72 hours of complaint receipt.
 - xi. Date and time complaint summary provided to complainant.

Complainant may remain anonymous if requested; if so, Respondent need not include any

1 identifying information in the complaint documentation.

2 f. Notify South Coast AQMD by email: Michal Haynes (mhaynes@aqmd.gov) and
3 Garrett Kakishita (gkakishita@aqmd.gov) within one hour of receiving 6 or more
4 complaints (i.e., complaints from 6 different households) in a calendar day.

5 g. Provide South Coast AQMD a written report that includes the information recorded
6 under 1(e) and a summary of findings by Tuesday at 4:00 p.m. for the prior 7-day
7 reporting period, if at least one complaint was received during that 7-day period.
8 The 7-day reporting period begins on Saturday at 12:00 am and ends on Friday at
9 11:59 p.m. Report shall be submitted via email to Michal Haynes
10 (mhaynes@aqmd.gov) and Garrett Kakishita (gkakishita@aqmd.gov).

11 2. Respondent shall designate within sixty (60) days of the issuance of this Order, at
12 their expense, qualified employees at the Facility to perform odor patrols and hydrogen sulfide
13 (H2S) monitoring using portable H2S monitors near the Facility in the adjacent communities. The
14 employee conducting the odor patrol in the community shall not have visited the primary treatment
15 systems area prior to conducting an odor patrol that day. Respondent shall authorize these
16 employees to address, respond to, investigate, and take corrective action(s) as necessary and
17 feasible to remediate the source of the odors and document the Facility's response to odor issues.
18 Odor patrols and monitoring shall occur at the following times:

- 19 a. During mornings between the hours of 0400 – 1000 hours.
20 b. During evenings between the hours of 2000 – 2200 hours.
21 c. When wastewater influent flows are expected to be at the highest that day,
22 according to Facility measurements and data.

23 Additionally, odor patrols and monitoring shall be performed when wind at the facility is
24 expected to be onshore and <5 mph.

25 Respondent shall hire a consultant to provide initial training for all relevant employees on
26 odor patrol and H2S monitoring practices and procedures, including odor detection, the
27 surveillance procedures required by this Order, and best practices to effectively track ambient
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odors during an odor surveillance. Respondent shall hire a consultant to provide refresher training semi-annually for all relevant employees. Respondent shall maintain records documenting both initial and refresher training. Initial training shall occur by November 7, 2022. Following the initial training, and by December 4, 2022 the consultant shall accompany Respondent on community odor surveillances during the first daily odor surveillance for a period of three weeks to provide additional instruction on conducting the odor surveillance, with each employee that conducts odor surveillance going on at least three consultant-accompanied odor surveillance trips (altogether, “Additional Training”). Respondent shall provide records of training to South Coast AQMD (attention Michal Haynes, mhaynes@aqmd.gov and Garrett Kakishita, gkakashita@aqmd.gov) upon request.

3. Respondent shall continue to operate the three (3) Acrulog H2S monitoring systems at their current locations, per the coordinates listed in the table below, along the eastern fenceline perimeter.

Acrulog site #5	33.924518	-118.426900
Acrulog site #7	33.926856	-118.427632
Acrulog site #9	33.928822	-118.428364

The Acrulog at site #5 shall be operated until the Teledyne at temporary site #2 is operational, pursuant to Condition No. 4. The Acrulogs at sites #7 and #9 shall be operated until the Teledyne at permanent site #3 is operational, pursuant to Condition No. 4. These Acrulog H2S monitoring systems shall measure H2S levels at least once every 15 minutes. Data from these monitors shall be posted on Respondent’s website. Data from these monitors shall be kept on file and made available immediately to South Coast AQMD personnel upon request. Weekly records, from Saturday at 12:00 a.m. through Friday at 11:59 pm, shall be sent to Michal Haynes (mhaynes@aqmd.gov) and Garrett Kakishita (gkakashita@aqmd.gov) by the following Tuesday at 4:00 p.m.

4. Respondent shall continue to operate the two (2) Teledyne T101 H2S monitoring

1 systems at their current locations, per the coordinates listed in the table below, along the eastern
2 fenceline perimeter.

3 Teledyne site #1	33.92879	-118.42842
4 Teledyne temporary site #3	33.92083	-118.42532

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6 Respondent shall, within ninety (90) days of the issuance of this Order, install and operate a
7 third Teledyne T101 H2S monitoring system at the following location.

8 Teledyne temporary site #2	33.92687	-118.42778
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10 Respondent shall relocate the Teledynes at temporary site #2 and temporary site #3 to
11 permanent site #2 and permanent site #3, respectively, once the roadwork at the permanent sites is
12 complete. These relocated Teledynes shall be installed and operated at the following locations, per
13 the coordinates listed in the table below.

14 Teledyne permanent site #2	33.92659	-118.42751
15 Teledyne permanent site #3	33.92245	-118.42589

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17 Respondent shall maintain at least one (1) spare Teledyne T101 monitoring system on-site
18 in case of malfunction. These Teledyne H2S monitoring systems shall measure H2S levels at least
19 once every 5 minutes. Data from these monitors shall be posted live in real time on Respondent's
20 website. Data from these monitors shall be kept on file and made available immediately to South
21 Coast AQMD personnel upon request. Weekly records, from Saturday at 12:00 a.m. through
22 Friday at 11:59 p.m., shall be sent to Michal Haynes (mhaynes@aqmd.gov) and Garrett Kakishita
23 (gkakishita@aqmd.gov) by the following Tuesday at 4:00 p.m.

24 5. Respondent shall notify South Coast AQMD by telephone at 1-800-CUT-SMOG
25 (1-800-288-7664) no more than one hour after detecting a H2S reading of more than 30 ppb (0.03
26 ppm) for a one-hour average in the modes of H2S monitoring described in Condition Nos. 3 and 4.

27 6. Respondent, upon detecting H2S levels in excess of 27 ppb (0.027 ppm) for a one-
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1 hour average in the modes of H2S monitoring described in Conditions Nos. 3 and 4, shall employ
2 odor reduction measures within one hour, wherever practicable, including but not limited to:
3 a. Application of ferric salts (e.g., ferric chloride) in the influent channel.
4 b. Deployment of misting systems at odor sources using non-VOC-containing odor
5 neutralizing chemicals. The misting system and neutralizers shall be used for a
6 minimum of 1 hour after the last exceedance period.

7 Respondent shall provide records of odor reduction measures taken to Michal Haynes
8 (mhaynes@aqmd.gov) and Garrett Kakishita (gkakashita@aqmd.gov). Respondent shall
9 remeasure H2S levels within 1 hour of employment of odor reduction measures. Respondent shall
10 perform a root cause analysis and provide a written report to Michal Haynes
11 (mhaynes@aqmd.gov) and Garrett Kakishita (gkakashita@aqmd.gov) within 3 days of the elevated
12 reading(s). Respondent shall submit a Safety Data Sheet (SDS) on the odor neutralizing chemical
13 to Ray Ronquillo (rtronquillo1@aqmd.gov), prior to use in the misting system.

14 7. Respondent shall, no later than twenty-one (21) days from the issuance of this
15 Order, repair or replace all non-functional pressure gauges associated with Permit numbers
16 F66769, F66770, F66771, G22329, F38896 and G15557 and provide proof of repairs to Michal
17 Haynes (mhaynes@aqmd.gov) and Garrett Kakishita (gkakashita@aqmd.gov).

18 8. Respondent shall, no later than fourteen (14) days from the issuance of this Order,
19 submit a report on the clarifier tank covers of Primary Battery A-D (PTO G48629), including the
20 condition of all tank covers and whether repairs, replacement, or improvements are needed, and a
21 timeline to make any such repairs, replacements or improvements to Michal Haynes
22 (mhaynes@aqmd.gov) and Garrett Kakishita (gkakashita@aqmd.gov).

23 9. Respondent shall inspect scrubber gauges, stack emissions and process equipment
24 daily. Respondent shall notify South Coast AQMD by telephone at 1-800-CUT-SMOG (1-800-
25 288-7664) of any equipment operating contrary to its Title V permit conditions, within one hour of
26 confirming maintenance problems.

27 10. Respondent shall inspect bar screens daily. Records of daily bar screen inspections
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1 and bar screen maintenance shall be kept monthly and provided to Michal Haynes
2 (mhaynes@aqmd.gov) and Garrett Kakishita (gkakishita@aqmd.gov) no later than 5 business days
3 after the conclusion of each calendar month.

4 11. Respondent shall measure the concentration of H2S at the exhaust of the Odor
5 Control System (PTO G22329) at least once per day as required in Condition No. 6 of the Permit
6 to Operate, using an approved instrument. Approved instrument specifications shall be capable of
7 measuring H2S concentrations specified in PTO G22329 (1.0 ppmv permit limit). Instrument
8 specification documentation shall be provided to Michal Haynes (mhaynes@aqmd.gov), Garrett
9 Kakishita (gkakishita@aqmd.gov), and Ray Ronquillo (ronquillo1@aqmd.gov) within ten (10)
10 days from the issuance of this Order.

11 12. Respondent shall notify South Coast AQMD by telephone at 1-800-CUT-SMOG
12 (1-800-288-7664) no more than one hour after detecting an H2S reading of more than 1.0 ppmv at
13 the exhaust of the Odor Control System (PTO G22329).

14 13. Respondent shall ensure the Odor Control System (PTO G22329) continuously
15 recirculates sodium hypochlorite and sodium hydroxide through the system without any
16 interruptions. Respondent shall maintain enough sodium hypochlorite and sodium hydroxide onsite
17 at all times so that the system does not operate without scrubbing solution at any time.

18 14. Respondent shall ensure adequate stock of all odor control products and supplies,
19 including, but not limited to, ferric salts, calibration gases, calibrated field instruments, odor
20 neutralizing chemicals, sodium hypochlorite and sodium hydroxide.

21 15. Respondent shall no later than ten (10) days from the issuance of this Order
22 authorize retention of a consultant to conduct the following assessments and studies:

- 23 a. A study in the nearby communities, including but not limited to Playa Del Rey and
24 El Segundo, based on available meteorological data to determine prevailing wind
25 patterns in the community and related meteorological conditions. This study shall
26 include an assessment of prevailing wind direction and speeds throughout the
27 course of the past five calendar years.

- b. Onsite study to characterize wind patterns and related meteorological conditions at each location identified as an odor source by the consultant. Study shall include an assessment of installation of potential barriers between current and future odor source locations at the Facility to reduce odors impacts on the surrounding communities.
- c. Analysis of verified complaint trends throughout the course of the past five calendar years.
- d. Onsite assessment of the Odor Control System (PTO G22329) for the purpose of determining whether the design capacity of the system can sustain the influent flow of the plant and whether certain improvements to the operation of the system can be implemented to reduce the frequency of maintenance events.
- e. Onsite assessment of when odors are most prevalent and the associated operations at the Facility.
- f. Onsite assessment of practices throughout and at the end of the operating day that mitigate odors at the Facility.
- g. Onsite assessment of odor neutralizer uses and applications.
- h. A list of general best management practices to mitigate potential odors from a sewage treatment plant.
- i. The consultant shall attend a public meeting hosted by Respondent to listen to resident concerns.
- j. The consultant shall receive all root cause analysis reports as described in Condition 6.

Upon completion of the assessment of operations, the consultant shall propose adjustments or modifications to sewage treatment systems or operations that the consultant reasonably believes, based on their professional judgment, could reduce the potential emission of odors from the Facility and related community impacts. The consultant shall include an assessment of the feasibility and limitations of any proposed operational adjustment or modification. The consultant

1 shall document its proposals in a final report (Consultant Report) to be submitted to South Coast
2 AQMD (Attention: Michal Haynes, mhaynes@aqmd.gov; Garrett Kakishita,
3 gkakishita@aqmd.gov; Ray Ronquillo, ronquillo1@aqmd.gov; Erika Chavez,
4 echavez@aqmd.gov; and Mary Reichert, mreichert@aqmd.gov) by December 6, 2022.

5 16. Respondent shall submit a proposed plan (Implementation Plan) implementing the
6 recommendations of the Consultant Report, as described in Condition No. 15, to South Coast
7 AQMD (Attention: Michal Haynes, mhaynes@aqmd.gov; Garrett Kakishita,
8 gkakishita@aqmd.gov; Ray Ronquillo, ronquillo1@aqmd.gov; Erika Chavez,
9 echavez@aqmd.gov; and Mary Reichert, mreichert@aqmd.gov) by January 6, 2023. The
10 Implementation Plan shall include timelines for submitting applications for all required approvals
11 from South Coast AQMD and any other regulatory entity, timelines for completing all necessary
12 steps for Respondent to execute contracts and purchase orders, and a manufacturing and
13 installation schedule, as applicable. On the same date that the Respondent submits its
14 Implementation Plan to South Coast AQMD, Respondent shall submit the Consultant Report,
15 Implementation Plan, and a status report to the Hearing Board (attention: Clerk of the Board).

16 17. Respondent shall retain a consultant to complete two (2) 24-hour integrated samples
17 using EPA TO 15 method, within 30 days of the issuance of this Order, in locations approved by
18 South Coast AQMD. The results shall be released simultaneously to South Coast AQMD and
19 Respondent.

20 18. Respondent shall, within 30 days of the issuance of this order, create an opt-in
21 email system for residents to receive notifications upon detecting H₂S levels in excess of 27 ppb
22 (0.027 ppm) for a one-hour average in the mode of H₂S monitoring described in Condition No. 4.

23 19. Respondent shall, within 30 days of the issuance of this order, submit a report to
24 South Coast AQMD (attention Ray Ronquillo, ronquillo@aqmd.gov) documenting its current
25 odor mitigation projects, timelines, and prioritizations and reasons therefor.

26 20. Respondent shall notify South Coast AQMD (attention Michal Haynes,
27 mhaynes@aqmd.gov and Garrett Kakishita, gkakishita@aqmd.gov) at least 24 hours in advance of
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1 removing clarifier tank covers of Primary Battery A-D (PTO G48629) for capital improvement
2 purposes.

3 21. Respondent shall return for a status hearing on January 17, 2023, or as soon
4 thereafter as the Hearing Board can schedule the status hearing, to report on the findings of the
5 Consultant Report, and status of the Implementation Plan and mitigation measures, and consider
6 modification or Dissolution of this Order, as appropriate.

7 22. The Hearing Board may modify the Order for Abatement upon making the findings
8 required by Health and Safety Code Section 42451(a) and South Coast AQMD Rule 806(a). Any
9 modification of the Order shall be made only at a public hearing held upon 10 days published
10 notice and appropriate written notice to Respondent.

11 23. The Hearing Board shall retain jurisdiction over this matter until and including
12 **September 6, 2023** and at that time this Order shall no longer be of any force or effect, unless this
13 Order is amended, modified or dissolved before then.

14 24. Nothing herein shall be deemed or construed to limit the authority of South Coast
15 AQMD to issue Notices of Violation, or to seek civil penalties, criminal penalties, or injunctive
16 relief, or to seek further orders for abatement, or other administrative or legal relief.

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FOR THE BOARD:

DATE SIGNED:

1 **SO STIPULATED:**

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3 DATE: September 7, 2022

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
OFFICE OF THE GENERAL COUNSEL

4
5 By: Mary Reichert
6 Mary Reichert, Senior Deputy District Counsel
Erika Chavez, Senior Deputy District Counsel
Attorneys for Petitioner

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8 DATE: September 7, 2022

LA CITY SANITATION BUREAU, HYPERION WATER
RECLAMATION PLANT

9
10 By: Adena Hopenstand
11 Adena Hopenstand
12 Deputy City Attorney
13 City of Los Angeles
14 Attorney for Respondent
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