

California Regional Water Quality Control Board, San Diego Region

February 10, 2015

In reply refer to / attn:
Place ID 658018:LWalsh

Mr. Christopher Macon
City Manager
City of Laguna Woods
24264 El Toro Road
Laguna Woods, CA 92637

Mr. Bruce Channing
City Manager
City of Laguna Hills
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Mr. Thomas Wheeler, PE
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City of Lake Forest
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Lake Forest, CA 92630

Subject: Regional Water Board Designation for Regulating Municipal Separate Storm Sewer System Discharges in the Cities of Laguna Woods, Laguna Hills, and Lake Forest, Orange County

Messrs. Macon, Channing, and Wheeler:

This is in response to your separately submitted requests seeking designation of a single Regional Water Board to regulate matters pertaining to Phase 1 municipal separate storm sewer system (MS4) discharges in the Cities of Laguna Hills, Laguna Woods and Lake Forest (jointly referred to herein as Cities). The requests were consolidated for review and this letter is being issued in response to all three requests.

As provided in Water Code section 13228(a), this letter constitutes the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) agreement (Agreement) to the Regional Water Board designations specified below.

1. Except as otherwise provided in this Agreement, the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) is designated to regulate the entire jurisdictional area of the City of Lake Forest under the Santa Ana Water Board's *National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Orange County Flood Control District, the County of Orange and the Incorporated Cities therein within the Santa Ana Region, Area-wide Urban Runoff, Santa Ana Region* (Order No. R8-2015-0001, NPDES No. CAS618030, as it may be amended or reissued) (Santa

Ana Phase 1 MS4 Permit),¹ including those areas of the City located within the San Diego Water Board's geographic jurisdiction; *and*

2. Except as otherwise provided in this Agreement, the San Diego Water Board is designated to regulate the entire jurisdictional areas of the City of Laguna Woods and the City of Laguna Hills under San Diego Water Board's *NPDES Permit and Waste Discharge Requirements for Discharges from the MS4s Draining the Watersheds Within the San Diego Region* (Order No. R9-2013-0001, as amended by Order No. R9-2015-0001, NPDES No. CAS0109266, as it may be further amended or reissued) (San Diego Phase 1 MS4 Permit),² including those areas of each City located within the Santa Ana Water Board's geographic jurisdiction.

This Agreement is based upon the written request submitted by each City, factual considerations and other conditions as summarized below. To the extent of any inconsistencies between the terms of this Agreement and the permit provisions implementing the Agreement, the permit provisions prevail.

Regional Water Board Designation Request

Written requests for designation of a single Regional Water Board to regulate matters pertaining to permitting of Phase I MS4 discharges were submitted to the San Diego Water Board by the City of Laguna Hills by letter dated March 12, 2014 (attached hereto as Exhibit 1), the City of Laguna Woods by letter dated September 8, 2014 (attached hereto as Exhibit 2), and the City of Lake Forest by letters dated January 14, 2013, and April 4, 2014 (attached hereto as Exhibit 3). The City of Laguna Hills and the City of Laguna Woods requested designation of the San Diego Water Board, and the City of Lake Forest requested designation of the Santa Ana Water Board. Water Code section 13228 specifies the circumstances that allow, and the process for, designation of a Regional Water Board.

Factual Considerations

The Cities each lay partially within the geographic jurisdictional boundaries of the San Diego Water Board and the Santa Ana Water Board. Phase 1 MS4 discharges in portions of the Cities are currently regulated under separate Phase 1 MS4 NPDES permits issued by the Santa Ana Water Board and by the San Diego Water Board.

The Santa Ana Water Board and San Diego Water Board establish generally consistent requirements for MS4 dischargers to a) meet the technology-based standard of reducing pollutants in MS4 discharges to the maximum extent practicable (MEP); b) implement a related iterative process to ensure MS4 discharges meet receiving water quality standards; and c) effectively prohibit non-storm water discharges from entering the MS4. However due to the unique nature of watersheds and water quality issues in the San Diego Region and Santa Ana Region, MS4 permit requirements between the two Regional Water Boards may also vary to

¹ While the Santa Ana Phase 1 MS4 Permit has not been adopted as of the date of this letter, the effective date of this Agreement is contingent upon its adoption (see paragraph 1., Effective Date, below).

² While the San Diego Phase 1 MS4 Permit has not been adopted as of the date of this letter, the effective date of this Agreement is contingent upon its adoption (see paragraph 1., Effective Date, below)

address region specific pollutant discharges and watershed conditions. The Cities report that management and implementation of municipal programs to comply with two different MS4 permits creates a significant administrative and financial burden that is not contributing to greater overall water quality improvements in either region.

The San Diego Water Board is scheduled to hold a public hearing on February 11, 2015 to consider adoption of Tentative Order No. R9-2015-0001, *An Order Amending Order No. R9-2013-0001, NPDES No. CAS010266, National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region* (Tentative Order). The Tentative Order proposes to amend the San Diego Phase 1 MS4 Permit for a variety of reasons including incorporation of the County of Orange, Orange County Flood Control District, and the cities of Aliso Viejo, Dana Point, Lake Forest³ Laguna Beach, Laguna Hills, Laguna Niguel, Laguna Woods, Mission Viejo, Rancho Santa Margarita, San Clemente, and San Juan Capistrano as MS4 dischargers responsible for compliance with the terms and the conditions of the San Diego Phase 1 MS4 Permit. The Tentative Order also proposes limited permit provisions addressing Regional Water Board designation to consolidate regulation of the Cities of Laguna Hills, Laguna Woods, and Lake Forest pursuant to Water Code section 13228, in accordance with the terms of this Agreement.

The Santa Ana Water Board recently released for public comment a Second Draft of the Santa Ana Phase I MS4 Permit. The current written public comment period is scheduled to close February 13, 2015. The Santa Ana Water Board has not yet scheduled a hearing date to consider adoption of the Santa Ana Phase 1 MS4 Permit.

San Diego Water Board Conditions for Regional Water Board Designation

This Agreement is conditional upon the following:

1. **Effective Date.** The San Diego Water Board intends to consider amending the San Diego Phase 1 MS4 Permit at a hearing on February 11, 2015. The Santa Ana Water Board has not yet scheduled a hearing to consider adoption of the Santa Ana Phase 1 MS4 Permit. To avoid gaps or duplication in regulation until both Regional Water Boards have acted to adopt their Phase 1 MS4 Permits, the Regional Water Board designations described in this Agreement shall become effective on the last date on which both the San Diego Phase 1 MS4 Permit and the Santa Ana Phase 1 MS4 Permit are adopted and effective.
2. **Applicability of Designation.** Except as otherwise provided herein, this Agreement enables each City to be regulated under a single Phase 1 MS4 Permit.
3. **Conformance with Written Request.** Upon the effective date of this Agreement, each City shall implement the water quality protection measures described in its written request for designation and attached as Exhibits 1, 2 and 3 hereto as reflected in the San Diego

³ Until this Agreement is effective, the City of Lake Forest within the San Diego Water Board's geographical region will be covered under Order No. R9-2013-0001 as amended by Order No. R9-2015-0001.

and Santa Ana Phase I Permits. These water quality protection measures are incorporated by reference into this Agreement as if fully stated herein. The conditions of this Agreement shall supersede any conflicting provisions in the Cities' written requests.

4. **Enforcement Authority.** Each Regional Water Board reserves its right to take any enforcement action against a City, as authorized by law for any violations of the terms and conditions of the applicable Phase 1 MS4 Permit which affects that Regional Water Board pursuant to Water Code section 13228(b). Responsibility for undertaking enforcement to compel compliance with permit conditions will generally be assumed by the Regional Water Board that issued the Phase 1 MS4 Permit.
5. **Total Maximum Daily Load Requirements for the City of Laguna Woods or the City of Laguna Hills.** Any Total Maximum Daily Load (TMDL) and associated Phase 1 MS4 permit requirements issued by the Santa Ana Water Board and applicable to the City of Laguna Woods or the City of Laguna Hills will be incorporated into the appropriate Phase 1 MS4 permit by reference and remain applicable.
6. **Total Maximum Daily Load Requirements for the City of Lake Forest.** Any TMDL and associated Phase 1 MS4 permit requirements issued by the San Diego Water Board and applicable to the City of Lake Forest will be incorporated into the appropriate Phase I MS4 Permit by reference and remain applicable.
7. **Construction Site Storm Water Program.** Construction sites in the Cities regulated under the statewide *General Permit for Construction Discharges of Storm Water Associated with Construction Activities*, Order No. 2009-0009-DWQ and any subsequent reissuance (Construction General Storm Water Permit) will continue to be subject to regulation by the San Diego Water Board or the Santa Ana Water Board as determined by the geographical jurisdictional area of each Regional Water Board. The Santa Ana Water Board will notify the San Diego Water Board of any incidents of noncompliance discovered during inspections of construction sites within its geographic jurisdictional boundary that discharge into an MS4 owned or operated by the City of Laguna Woods or the City of Laguna Hills. The San Diego Water Board will notify the Santa Ana Water Board of any incidents of noncompliance discovered during inspections of construction sites within its geographic jurisdictional boundary that discharge into an MS4 owned or operated by the City of Lake Forest.
8. **Industrial Site Storm Water Program.** Industrial sites in the Cities subject to regulation under the statewide *General Permit for Industrial Discharges of Storm Water Associated with Industrial Activities*, Order No. 97-03-DWQ and any subsequent reissuance (Industrial General Storm Water Permit) will continue to be subject to regulation by the San Diego Water Board or the Santa Ana Water Board as determined by the geographical jurisdictional area of each Regional Water Board. The Santa Ana Water Board will notify the San Diego Water Board of any incidents of noncompliance discovered during inspections of industrial sites within its geographic jurisdictional boundary that discharge into an MS4 owned or operated by the City of Laguna Woods or the City of Laguna Hills.

The San Diego Water Board will notify the Santa Ana Water Board of any incidents of noncompliance discovered during inspections of industrial sites within its geographic jurisdictional boundary that discharge into an MS4 owned or operated by the City of Lake Forest.

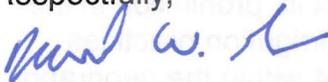
9. **Municipal Construction Projects.** For all municipal construction projects, including those projects located within the jurisdictional area of the Santa Ana Water Board, the City of Laguna Woods and the City of Laguna Hills will submit Permit Registration Documents (PRDs) in the form of a Notice of Intent (NOI) with appropriate fees in accordance with the manner prescribed in the statewide Construction General Storm Water Permit. For all municipal construction projects, including those projects located within the jurisdictional area of the San Diego Water Board, the City of Lake Forest will use the process established by the Santa Ana Water Board for obtaining coverage under the Construction General Storm Water Permit.
10. **Municipal Corporate Yards.** The City of Laguna Woods and the City of Laguna Hills currently do not have municipal corporate yards. If either City creates a municipal corporate yard during the term of this Agreement, the City shall obtain coverage under the statewide Industrial General Storm Water Permit for the municipal corporate yard.
11. **Water Quality Improvement Plan.** The San Diego Phase 1 MS4 Permit requires responsible agencies within designated Watershed Management Areas to develop and implement a Water Quality Improvement Plan. The Water Quality Improvement Plan is a comprehensive watershed plan that identifies priority water quality conditions, water quality improvement goals, pollutant control strategies, and implementation schedules to achieve the goals. The requirements of TMDLs adopted by the San Diego Water Board have been incorporated into the requirements of the Water Quality Improvement Plan allowing the City of Lake Forest and the other responsible agencies within the South Orange County Watershed Management Area to develop a single plan to coordinate their non-storm water and storm water runoff management programs. The City of Lake Forest will continue to actively participate in the development and implementation of the Water Quality Improvement Plan for the Aliso Creek Watershed Management Area.
12. **Over-Irrigation Prohibitions.** The City of Lake Forest will continue to retain and implement its prohibition in the City Municipal Code against non-storm water discharges from over-irrigation practices throughout its jurisdiction. The City of Laguna Woods will continue to retain and implement its prohibition in the City Municipal Code against non-storm water discharges from over-irrigation practices throughout its jurisdiction, including those areas that drain to an MS4 within the geographic jurisdictional boundary of the Santa Ana Water Board. The City of Laguna Hills will continue to retain and implement its prohibition in the City Municipal Code against non-storm water discharges from over-irrigation practices throughout its jurisdiction, including those areas that drain to an MS4 within the geographic jurisdictional boundary of the Santa Ana Water Board.

13. **Unified Beach Water Quality Monitoring.** The Cities, together with Orange County Health Care Agency, and South Orange County Wastewater Authority, will participate in and share responsibility for implementation of the unified regional beach water quality monitoring and assessment program in south Orange County established in the California Water Code section 13383 directive issued by the San Diego Water Board Executive Officer on December 5, 2014 (attached hereto as Exhibit 4).
14. **Citizen Complaints.** Citizen complaints received regarding discharges from municipal, construction, industrial, and commercial sites to MS4s within the jurisdiction of the City of Laguna Woods or the City of Laguna Hills will be referred to the San Diego Water Board for review. Citizen complaints received regarding discharges from municipal, construction, industrial, and commercial sites to MS4s within the City of Lake Forest will be referred to the Santa Ana Water Board for review.
15. **Annual Reports.** Annual Reports prepared by each City pursuant to its Phase 1 MS4 Permit requirements shall be a single report encompassing the entire geographic jurisdictional area of the City, using the format prescribed in the applicable Phase 1 MS4 Permit. The Annual Reports shall be submitted to the Regional Water Board that issued the applicable Phase 1 MS4 NPDES Permit.
16. **Periodic Review of Agreement.** The basis supporting the Cities of Laguna Woods, Laguna Hills, and Lake Forest's requests to designate a single Regional Water Board for regulatory oversight may change under future conditions and circumstances. Therefore the San Diego Water Board will periodically review the effectiveness of this Agreement during each Phase 1 MS4 Permit reissuance. Based on this periodic review the San Diego Water Board may terminate the Agreement with the Santa Ana Water Board or otherwise modify the Agreement subject to the approval of the Santa Ana Water Board.

Please send any written correspondence in response to this letter to SanDiego@waterboards.ca.gov. These electronic documents must be submitted as a single file, in Portable Document Format (PDF) format, and converted to text searchable format using Optical Character Recognition (OCR). All electronic documents must also include scanned copies of all signature pages; electronic signatures will not be accepted. Electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line **Place ID 658018:LWalsh**.

For questions or comments, please contact Laurie Walsh by phone at (619) 521-3373 or by email at Laurie.Walsh@waterboards.ca.gov.

Respectfully,



DAVID W. GIBSON
Executive Officer

DWG:dtb:esb:law

- Enclosures: Exhibit 1. City of Laguna Woods, September 8, 2014 written request
- Exhibit 2. City of Laguna Hills, March 12, 2014 written request
- Exhibit 3. City of Lake Forest, January 14, 2013 and April 4, 2014 written requests
- Exhibit 4. Unified Beach Water Quality Monitoring and Assessment Program

cc: Kurt Berchtold, Executive Officer, Santa Ana Water Board

Tech Staff Info & Use	
Tentative Order No.	R9-2015-0001(revising R9-2013-0001)
Party (GT/CIWQS) ID	Laguna Woods CW-38102 Laguna Hills CW-382239 Lake Forest CW-525638
NPDES No.	CAS0109266
Reg. Measure ID	332672 (OC Permit)
Place IDs	CW-658018 OC Copermittees CW-236148 Laguna Woods CW-236131 Laguna Hills CW-236212 Lake Forest