December 28, 2018 Certified Mail 7016 2710 0000 2635 5485

Mr. Robert S. Green, Jr.
P.O. Box 1506
Healdsburg, CA 95448
robert@therobertgreencompany.com

Dear Mr. Green:

Subject: **Notice of Violation and Investigative Order Pursuant to California Water Code Section 13267**

File: Saggio Hills Development Project Site (a.k.a. Montage Healdsburg)
WDID No. 1B06169WNSO
WDID No. 1 49C375878

The North Coast Regional Water Quality Control Board (Regional Water Board) is the public agency with primary responsibility for the protection of ground and surface water quality for all beneficial uses within the north coast region of the State of California. As such, Sonoma Luxury Resort, LCC, applied to the Regional Water Board for and received a Clean Water Act section 401 (33 U.S.C. 1341) Water Quality Certification (401 Certification) in 2008, amended in 2013 and 2018. Similarly, Sonoma Luxury Resort, LLC, applied for and received coverage on April 4, 2016, as a Risk Level 3 site under the *General Permit to Discharge Storm Water Associated with Construction and Land Disturbance Activity* (Construction General Permit), State Water Resources Control Board Order No. 2009-0009 DWQ (as amended). Sonoma Luxury Resort, LLC, and its Saggio Hills Development are also subject to the *Water Quality Control Plan for the North Coast Region* (Basin Plan). Under these authorities, Regional Water Board staff inspected the Saggio Hills Development on November 29 and December 11, 2018 and observed and documented several violations. A copy of the November 29, Inspection Report is enclosed for your review. Both the report and photos from the December 11 site visit will be posted on the Stormwater Multiple Application and Report Tracking System (SMARTS)[1] database.

This letter is provided to (1) notify you of the observed violations of the 401 Certification, Construction General Permit, and Basin Plan for unauthorized sediment-laden discharges to waters of the state and the United States and exceedances of the Basin Plan turbidity objective caused by the lack of best management practices (BMPs) at the Site, and for Sonoma Luxury Resort, LLC's failure to conduct in-stream bioassessment monitoring, and

[1] SMARTS is accessible here: https://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.xhtml

(2) pursuant to California Water Code section 13267, serve as an order of the Regional Water Board for Sonoma Luxury Resort, LLC, to prepare and provide technical reports and conduct monitoring by their corresponding due dates as defined in the *Information Required* section of this order below, which include:

- **daily** instream water quality monitoring during rain events more than one-half inch of precipitation,
- reporting **within 24 hours** of instream data collection,
- submittal of **weekly** wet season soil disturbance reports,
- submittal **by no later than January 31, 2019** of a numeric action level exceedance report,
- soil removal and discharge volume estimates,
- a timeline of land disturbance activities, and
- a chronology of erosion and sediment controls implemented at the Site.

I. Background

Sonoma Luxury Resort, LLC (Discharger), is constructing a resort and residential homes with structures and associated infrastructure disturbing approximately 65 acres of the 258-acre site (Site) in the hills in the northern portion of the unincorporated urban boundary of the City of Healdsburg, in Sonoma County.[2] The Site consists of a 43-acre site for a 130 room hotel resort, 37 acres for a public park and fire substation, 14.3 acres for 150 units of affordable housing, and 22 acres for construction of 70 privately owned residences within a 142-acre private open space. Site construction began in May 2016; grading is anticipated to be completed in October 2019,[3] with final stabilization in November 2021. The Site contains approximately 3.8 acres of wetlands and other waters of the state and the United States, and the project will permanently fill 2.08 acres of seasonal wetlands and 1,100 linear feet of watercourse. Storm water runoff discharges to Foss Creek, and to an unnamed tributary to Jordan Pond then to Lytton Creek, both of which are tributary to the Russian River. The Russian River is a water of the state and the United States and is identified as impaired on the Clean Water Act section 303(d) list for sediment and temperature.

On November 29, 2018, Regional Water Board staff conducted a routine site inspection to determine compliance with the 401 Certification and Construction General Permit, accompanied by City of Healdsburg staff.[4] It rained approximately 0.65" the day of the inspection. Regional Water Board staff observed and documented egregious violations including highly turbid water discharging off the Site and a lack of BMPs to prevent or minimize pollutants from discharging off Site. Water samples collected by Regional Water Board staff during the inspection at multiple locations on average greatly exceeded 500

[2] Project information taken from the Discharger's Notice of Intent for coverage of the Construction General Permit and Regional Water Board November 29, 2018 inspection report written by Jeremiah Puget, dated December 13, 2018.

[3] These completion dates do not account for the delay from City of Healdsburg's temporarily rescinding their exception to grading restrictions, or the Regional Water Board's temporarily revoking the 401 Certification.

[4] See Regional Water Board inspection report written by Jeremiah Puget, dated December 12, 2018.

nephelometric turbidity units (NTU). Staff described to the Discharger's representative on site their observed violations and concerns. In a follow up e-mail on December 3, 2018, staff listed 401 Certification and Construction General Permit violations and required the Discharger to cease all activities at the Site until it was adequately protected with BMPs, and specifically required additional monitoring in the receiving water.[5] Regional Water Board staff returned to the Site to measure soil loss on December 4, and again on December 6, to identify receiving water monitoring locations.[6] On December 11, Regional Water Board staff inspected at the Discharger's request and observed significant improvement to the implemented BMPs.[7] In response to the improvement to the protection to water quality at the Site, Regional Water Board staff lifted the ban on certain construction activities and agreed to allow commencement of very specific, limited construction activities on the Site.[8] Communications continue regarding the ongoing BMP and 401 Certification concerns.

II. Alleged Violations

As documented in the November 29, 2018 Inspection Report, staff observed violations of the Construction General Permit, 401 Certification, and Basin Plan as follows:

A. Construction General Permit

a. All discharges caused by ineffective BMPs or lack of BMPs that caused or contributed to discharges of sediment-laden storm discharges are prohibited and violate Section III. Discharge Prohibition B. (Page 20.) These are significant violations that need to cease immediately, and procedures put in place to prevent future unauthorized discharges. See pictures 1-68[9] from the November 29, 2018, Inspection Report.

b. Similarly, all sediment-laden discharges where pollutants were not minimized or prevented in storm water through the use of controls, structures, and management practices that achieve Best Available Technology Economically Achievable (BAT) for toxic and non-conventional pollutants and Best Conventional Pollutant Control Technology (BCT) for conventional pollutants violate Section V. Effluent Standards & Receiving Water Monitoring, A. Narrative Effluent Limitations, subdivision 2. (Page 28.) These are significant violations that need to cease immediately, and procedures put in place to prevent future unauthorized discharges. See pictures 1-68 from the November 29, 2018, Inspection Report.

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[5] Jeremiah Puget e-mail to David King, Robert Green, and Chris Theiss, dated December 3, 2018,

[6] Jeremiah Puget e-mail to David King, Robert Green, and Chris Theiss, dated December 3, 2018, and Jeremiah Puget e-mail to Kevin Kruizenga, Steve Stetson, Robert Green, Chris Theiss, and Jim Fain, dated December 7, 2018.

[7] Regional Water Board inspection report written by Jeremiah Puget, dated December 12, 2018.

[8] Jeremiah Puget e-mail to Chris Theiss, David King, and Robert Green, December 13, 2018.

[9] The references to the photos in this document are provided as examples of violations. They are the best photos from November 29 to show the violations observed that day. Additional photos are available at the Regional Water Board. These referenced photos are not all-inclusive of the violations observed during the inspection or at other times.

c. On November 29, 2018, downstream turbidity measurements taken by Regional Water Board staff were as high as 118% greater than the upstream measurement. On December 17, 2018, downstream turbidity measurements were as high as 98% greater than the upstream measurement. Measurements on both are greater than the 20% increase allowed in the Basin Plan,[10] thus violating Section VI. Receiving Water Limitations, C. (Page 31.) These are significant violations that need to cease immediately, and procedures put in place to prevent future unauthorized discharges. The November 29, 2018 Inspection Report describes the sampling on page 3, and the December 17, 2018 sampling log submitted to the Regional Water Board reports the turbidity sampling results.

d. The sediment-laden discharges to the waters of the state and United States violate the effluent standards contained in Attachment E, Risk Level 3 Requirements, Section A. Effluent Standards, subdivision 1.b. stating that, "Dischargers shall minimize or prevent pollutants in storm water discharges and authorized non-storm water discharges through the use of controls, structures, and management practices that achieve BAT for toxic and non-conventional pollutants and BCT for conventional pollutants." (Attachment E, page 1.) These discharges are significant violations that need to be addressed immediately. See pictures 8-10, 12, 14-16, 20-32, 34, and 38-63.

e. Inactive areas that lack effective soil cover, and finished slopes and/or open space without any effective soil cover violate Attachment E, Risk Level 3 Requirements, Section D. Erosion Control, subdivision 2. (Attach. E, p. 5.) The lack of sufficient, effective, and/or maintained soil cover erosion controls are significant, large-scale violations at the Site. See pictures 3a-3b, 5-10, 12, 18-28, 32, 33a, 35-40, 44-45, 52-58, and 63.

f. Active areas of construction that lack appropriate erosion control BMPs such as runoff control and soil stabilization in conjunction with sediment BMPs violate Attachment E, Risk Level 3 Requirement, Section E. Sediment Controls, subdivision 2. (Attach. E, p. 5.) The lack of sufficient, effective, and/or maintained soil cover erosion controls are significant, large-scale violations at the Site. See pictures 3a-12, 15, 17-27, 30-41, 44-46, 52-60, and 63.

g. Uncovered stockpiles placed near the top of a bank violate the requirements in Attachment E, Risk Level 3 Requirements, Section B. Good Site Management "Housekeeping," subdivision 1.b., stating, "Cover and berm loose stockpiled construction materials that are not actively being used …" (Attach. E, p. 1.) See picture 8.

h. Uncovered garbage bins and construction materials exposed to rain violating Attachment E, Risk Level 3 Requirements, Section B. Good Site Management "Housekeeping," subdivision 1.c., stating, "Minimize exposure of construction materials to precipitation." (Attach. E, p.1.) See pictures 29 and 57.

[10] See Basin Plan section 3.3.17 Turbidity, page 3-6.

i. During the November 29, 2018 inspection, Regional Water Board staff confirmed with the Discharger's representatives that no bioassessment monitoring had taken place before construction begun, violating Attachment E, Risk Level 3 Requirements, Section I. Risk Level 3 Monitoring and Reporting Requirements, subdivision 16.a., stating, "a. Risk Level 3 dischargers with a total project-related ground disturbance exceeding 30 acres shall:

i. Conduct bioassessment monitoring, as described in Appendix 3.
ii. Include the collection and reporting of specified in stream biological data and physical habitat.
iii. Use the bioassessment sample collection and Quality Assurance & Quality Control (QA/QC) protocols developed by the State of California's Surface Water Ambient Monitoring Program (SWAMP)." See pages 3-4.

B. Clean Water Act Section 401 Water Quality Certification

a. The debris, soil, silt, bark, rubbish, and/or other organic or earthen material from construction activity at the Site that the Discharger allowed to enter into or be placed where it could be washed by rainfall into waters of the state violate Condition 7. (401 Certification, page 6.) See pictures 8, 9, 16, 20, 22, 24, 31, 32, 41-46, and 55-58.

b. The lack of BMPs for erosion, sediment, and turbidity control at commencement of and during any ground clearing or other project activities that could result in erosion or sediment discharges to surface waters violate Condition 8. (401 Cert., p. 6.) See pictures 1, 15-16, 18-28, 32-46, 48-56, and 58-68.

c. As described above in section II. Alleged Violations A. Construction General Permit, violation c., when downstream turbidity measurements were as high as 118% and 98% greater than the upstream samples on November 29 and December 17, 2018, respectively, both are greater than the 20% increase allowed in the Basin Plan,[11] thus violating Condition 19. (Page 7.) These are significant violations that need to cease immediately, and procedures put in place to prevent future unauthorized discharges.

C. Basin Plan

a. Similar to section II. Alleged Violations A. Construction General Permit, violations a. and b., above, the multiple discharges of soil, silt, and earthen material to surface waters are prohibited and violate Basin Plan section 4.2.1.1, the Action Plan for Logging, Construction, and Associated Activities. (Page 4-33.00.) See pictures 1-68.

b. Similar to section II. Alleged Violations B. 401 Certification, violation a., above, placing soil, silt, bark, slash, or other earthen material where it could pass into any stream or watercourse in an amount that could be deleterious to fish, wildlife, or other beneficial uses is prohibited and violates Basin Plan section 4.2.1.2, the Action Plan for

[11] See Basin Plan section 3.3.17 Turbidity, page 3-6.

Logging, Construction, and Associated Activities. (Page 4-33.00). See pictures 8, 9, 16, 20, 22, 24, 31, 32, 41-46, 55-58.

III. Information Required

The Discharger is hereby required to submit the technical reports and documents described below pursuant to Water Code section 13267. When submitting each report, the Discharger shall include a statement by an authorized representative certifying under penalty of perjury in the conformance with the laws of the State of California that the signer has examined and is familiar with the report and that to his or her knowledge it is true, complete, and accurate. The Discharger shall state if it agrees with any recommendations or proposals included in the report and/or documents, and whether the Discharger approves implementing the recommendations or proposals. Any authorized representative signing a report submitted under this NOV/13267 Order shall make the following certification:

> I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments, and that based on my knowledge and inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information to the Regional Water Board, a State agency, including the possibility of a fine and imprisonment.

The Discharger shall submit reports, acceptable to the Assistant Executive Officer of the North Coast Regional Water Quality Control Board, as specified below:

A. Receiving Water Monitoring

Pursuant to the Construction General Permit Order for Risk Level 3 sites, section V.C., and section XV. D the Regional Water Board has the authority to require additional monitoring and reporting program requirement (See pages 29, 30, and 38.). Due to the severity of sediment discharges to waters of the state and the United States and violations of the Basin Plan turbidity objective, monitoring frequencies have been increased from once per rain event to daily during rain events. For the duration of General Construction Permit coverage, or until this NOV/13267 order is modified or rescinded by another Regional Water Board Order, the Discharger shall conduct in-stream water quality monitoring to evaluate BMP effectiveness and compliance with the Basin Plan water quality objectives.

a. Precipitation-Based Receiving Water Monitoring

Precipitation-based receiving water monitoring shall be performed subsequent to rain events more than one-half (> ½-) inch of precipitation. Samples shall be collected once daily for the duration of rain events that triggers monitoring until there is a 24-hour dry

period with no precipitation. As shown in Figure 1, enclosed, and as described below, in-stream water quality samples shall be collected at the 17 specified locations throughout the Site. Unless otherwise noted, all samples shall be analyzed for suspended sediment concentration (SSC), total suspended solids (TSS), turbidity, and pH.

1. Foss Upstream – Background sample within Foss Creek, upstream of any input from construction Site storm water effluent.
2. Pass 2 – Within Foss Creek, upstream of the pumphouse. SSC and TSS are not required to be analyzed at this location.
3. Pass 1 – Within Foss Creek, downstream of the confluence with the unnamed tributary along Road 4.
4. Foss 1 – Within Foss Creek, prior to the confluence with the unnamed tributary from Parkland Farms.
5. Park – Within the unnamed tributary from Parkland Farms, upstream of the confluence with Foss Creek. SSC and TSS are not required to be analyzed at this location.
6. Foss 2 – Within Foss Creek, downstream of the confluence with the unnamed tributary from Parkland Farms.
7. RD4-4 – Within the unnamed tributary to Foss Creek along Road 4, upstream of the influence from Roads 5 and 8.
8. RD8-UP – Within the third order unnamed tributary to Foss Creek, upstream of influence of Road 8. SSC and TSS are not required to be analyzed at this location.
9. RD4-3 – Within the unnamed tributary to Foss Creek along Road 4, downstream from sample RD4-4.
10. RD8-2 – Within the third order unnamed tributary to Foss Creek, upstream of the crossing with Road 4.
11. RD8 – Within the unnamed tributary to Foss Creek, downstream of the southern Road 8 stream crossing. SSC and TSS are not required to be analyzed at this location.
12. RD5 – Within the third order unnamed tributary to Foss Creek, upstream of the Road 5 crossing with Road 4.
13. RD4-2 – Within the unnamed tributary to Foss Creek, downstream of the influence of Roads 5 and 8.
14. RD4 – Within the unnamed tributary to Foss Creek, downstream of the influence of Roads 5 and 8, and upstream of the stream crossing on Passalacqua Road.
15. RO1 – Resort Area. Within the unnamed tributary to Jordan Pond, run-on from the neighboring landfill, and upstream of project influence.
16. H4A – Resort Area. Within the second order tributary to Jordan Pond, influenced by the hotel area.
17. DL6 – Resort Area. Within the unnamed tributary to Jordan Pond, downstream of the Site influence.

b. **Discharge-Based Receiving Water Monitoring**

Discharge-based receiving water monitoring shall be conducted immediately when any Site activity has resulted in an unauthorized discharge to waters of the state and the United

States including, but not limited to sediment and concrete discharges. For discharge-based monitoring the following conditions apply.

When conducting in-stream monitoring, the Discharger shall monitor the discharge and establish, upstream (background) and downstream monitoring locations to demonstrate compliance with applicable water quality objectives. The Discharger shall measure and report the overall distance from the discharge point to the downstream location where the water quality objectives are no longer exceeded.

Visual observations of all Site discharges and all Site discharge locations shall be documented daily with pictures and include the estimate of flow, volume, appearance of the discharge including color, floating or suspended matter or debris, appearance of the receiving water at the point of discharge (e.g., occurrence of erosion and scouring, turbidity, solids deposition, and unusual aquatic growth), and observations about the receiving water, such as the presence or absence of aquatic life.

Monitor discharge-based in-stream monitoring three times daily. The Discharger shall continue daily monitoring until the measurements demonstrate compliance with water quality objectives for each parameter listed below, and measured levels are no longer impacted as a result of Site activities.

1. Basin Plan section 3.3.17 turbidity objective (exceeded when sample downstream of discharge point is 20% above background/upstream sample); and
2. Basin Plan section 3, Table 3-1 Specific Water Quality Objectives for the North Coast Region Hydrogen Ion (pH) for the Russian River HU (exceeded when sample is <6.5 or >8.5). (See Basin Plan pages 3-6 and 3-11.)

This specific monitoring in no way exempts the Discharger from any additional sampling or monitoring in order to be fully compliant with applicable requirements and regulations, including, but not limited to: Basin Plan water quality objectives, 401 Certification, and the Construction General Permit.

B. Reporting

The pH and turbidity data from instream monitoring shall be uploaded to SMARTs and submitted via email to the Regional Water Board within **24 hours** of data collection. TSS and SSC shall be uploaded **24 hours** after analytical results are made available from the laboratory. Monitoring reports shall also include the amount of precipitation prior to sampling and total rainfall amounts.

As a reminder, Condition 11 of the 401 Certification states:

> If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented. The Regional Water Board shall be notified promptly and in no case

more than 24 hours after the unauthorized discharge or water quality problem arises.

Therefore, the Discharger is required to notify the Regional Water Board promptly and in no case more than **24 hours** after an unauthorized discharge or water quality problem arises. This includes, but is not limited to:

1. Sediment, concrete, or any other unauthorized discharges to waters of the state;
2. Any exceedance of the Basin Plan section 3.3.17 turbidity objective (20% above background/upstream samples); and
3. Any exceedance of the Basin Plan section 3, Table 3-1 Specific Water Quality Objectives for the North Coast Region Hydrogen Ion (pH) for the Russian River HU (<6.5 or >8.5). (See Basin Plan pages 3-6 and 3-11.)

The Discharger's report(s) shall include a description of the immediate corrective action(s) taken, the remedial action(s) necessary to cleanup and abate the effects of the unauthorized discharge and water quality problems, and any continued implementation and/or supplemental corrective actions or BMPs being implemented or planned to ensure adequate control and to prevent the recurrence of unauthorized discharges and water quality problems. These corrective action reports shall be included in the weekly submittals pursuant to Section III. H. of this NOV/13267 Order.

C. Storm Water Discharge Volume Estimates

By January 31, 2019, provide an estimate of the total volume of storm water discharged from the Site to surface waters (using TR-55 or an equivalent volume estimation model) for each of the qualifying rain events from the beginning of Site construction to the date of receipt of this NOV/13267 Order. These estimates shall include, but not be limited to, the following:

1. A topographic Site map describing drainage flow pathways, any detention ponds, sediment traps, permanent drainage systems and final outfalls to surface waters.

2. Engineering methods, diagrams, models, calculations and assumptions used to estimate the total volume including, at a minimum, the following:

    a. Site area run-on and direct precipitation volume;

    b. Surface infiltration/evaporation volume;

    c. Design, capacity and estimated efficiency of detention ponds/sediment traps, including an explanation of whether such structures are designed according to the method in California Stormwater Quality Association (CASQA) construction BMP Guidance Handbook; and

    d. Other features that would have retained storm water on the Site.

D. Soil Removal Volume Estimates

By January 31, 2019, provide an estimate of the total volume of sediment removed from waters of the state. Also provide separate estimates for the volume of material removed from the Site drainage system as noted by Regional Water Board staff during the December 11, 2018 inspection. Provide the methodology used to calculate the material volumes removed. Provide a plan to temporarily stabilize the spoil piles (soil material removed from waters and the drainage system) to prevent discharge of sediment. The plan shall include maps with spoil pile locations and indicate that soils will be stabilized at the upland location to prevent discharge of sediment to wetlands and other waters of the state and the United States.

E. Land Disturbance Activities Timeline

By January 31, 2019, provide a timeline describing when each stage of land disturbance activities began (i.e. the initiation dates of clearing/grubbing, mass grading, etc.) from the start of the Site through the completion of the Site. The timeline shall specify the general area of construction (i.e., lower resort area, hotel, road 5, etc.) and include a map showing the areas.

F. Best Management Practice Implementation and Evaluation

By January 31, 2019, provide a description and chronology of erosion and sediment controls that have been implemented, since the date initial land disturbance began (i.e. clearing/grubbing) to the date of your submittal in response to this NOV/13267 Order, to prevent the discharge of sediment to surface waters. This shall include, but is not limited to, the following:

1. The dates BMPs were applied to the Site to control erosion and/or sediment and other pollutants. Specify the timeline for each Site area including, but not limited to: Healdsburg Avenue; Roads 4, 5, and 8; areas along Passalacqua Road; and the resort area.
2. A summary of inspections and/or monitoring activities conducted by the Discharger and/or its contractors or consultants to assess the effectiveness of each BMP.
3. A summary of maintenance and/or repair activities conducted on each BMP.
4. Updated map and SWPPP showing location, type, quantity, maintenance and rational for BMP selection.
5. Identification of party responsible for BMP installation and maintenance and 24hour contact information.

G. Numeric Action Level (NAL) Exceedance Report

Pursuant to the Construction General Permit Attachment E for Risk Level 3 sites, section I, subdivision 15.a, the Regional Water Board has the authority to require the Discharger to

provide the NAL Exceedance Report when requested (See page 20.). Therefore, **by January 31, 2019**, provide an NAL Exceedance Report that includes an analysis of the factors contributing to the high turbidity values from samples collected by Regional Water Board staff on November 29, 2018. This shall include, but is not limited to, a description of what actions the Discharger has taken or will take and what BMPs the Discharger has installed or will install to mitigate[12] the sediment discharges from the Site. The Discharger shall revise the SWPPP accordingly to prevent and mitigate any discharges exceeding the NALs.

H. Wet Season Soil Disturbance Plan (WSSDP)

Condition 24 of the 401 Certification requires a Wet Season Soil Disturbance Plan (WSSDP) for working in disturbed soil areas between October 31 and May 1. The Regional Water Board received your WSSDP on December 11 & 12, 2018. Condition 25 of the 401 Certification requires weekly reports under an approved WSSDP. The Regional Water Board received timely your weekly wet season reports on December 20 and 27, 2018.

IV. Basis for Section 13267 Investigative Order

These technical reports are necessary for the Regional Water Board to determine the state of compliance at the Site with the federal Clean Water Act, California Water Code, the General Construction Permit, the 401 Certification associated with the Site, and the Basin Plan, with emphasis after the documented sediment-laden discharges into waters of the state and United States. The reports will assist the Regional Water Board in determining whether the Discharger has taken, or will take, necessary actions to protect water quality and the beneficial uses of surface waters in the Russian River watershed. The burden of compiling these reports, including the costs associated with collecting the information, bears a reasonable relationship to the need for the reports and the benefits to be obtained from them. The reports required in this NOV/13267 Order are reasonable to determine impacts and threatened impacts to water quality from the Discharger's activities and would be required by point and non-point source dischargers in similar circumstances including those at construction, dairy, commercial, and industrial sites. The burden of preparing such reports bear a direct relationship to the benefits of protecting surface waters from waste discharges that could impair its beneficial uses.

V. Future Enforcement Action

Since the November 29, 2018 inspection, the Discharger has already improved Site conditions by implementing new BMPs and developing a WSSDP.[13] However, the corrections made to the non-compliance conditions at the Site does not preclude enforcement for violations observed and alleged in this notice. The Regional Water Board

[12] Construction General Permit, section IV. Special Provisions, D. Duty to Mitigate, "The discharger shall take all responsible steps to minimize or prevent any discharge in violation of this General Permit, which has a reasonable likelihood of adversely affecting human health or the environment."
[13] Jeremiah Puget e-mail to Chris Theiss, David King, and Robert Green, December 13, 2018.

reserves its right to take any further enforcement action authorized by law, which may include a cleanup and abatement order, time schedule order, administrative civil liability, and/or referral to the California Attorney General for enforcement. Violations of the Clean Water Act or Construction General Permit may subject the Discharger to administrative civil liability up to $10,000 per day per violation, plus up to $10 per gallon discharged over 1,000 gallons not cleaned up pursuant to Water Code section 13385. Any violation of the requirements of this NOV/13267 Order may subject the Discharger to administrative civil liability up to $1,000 per day per violation pursuant to Water Code section 13268.

Should you have any questions regarding this matter, please contact Jeremiah Puget of my staff at Jeremiah.Puget@waterboards.ca.gov or (707) 576-2835. For any legal inquiries, contact Susie Loscutoff at Susan.Loscutoff@waterboards.ca.gov or (916) 327-0140.

Sincerely,

Digitally signed by Claudia Villacorta
Date: 2018.12.28 15:46:02 -08'00'

Claudia Villacorta, P.E.
Assistant Executive Officer

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Enclosure: November 29, 2018 Inspection Report

Certified – Return Receipt requested

cc:
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David King, The Robert Green Company, david@therobertgreencompany.com
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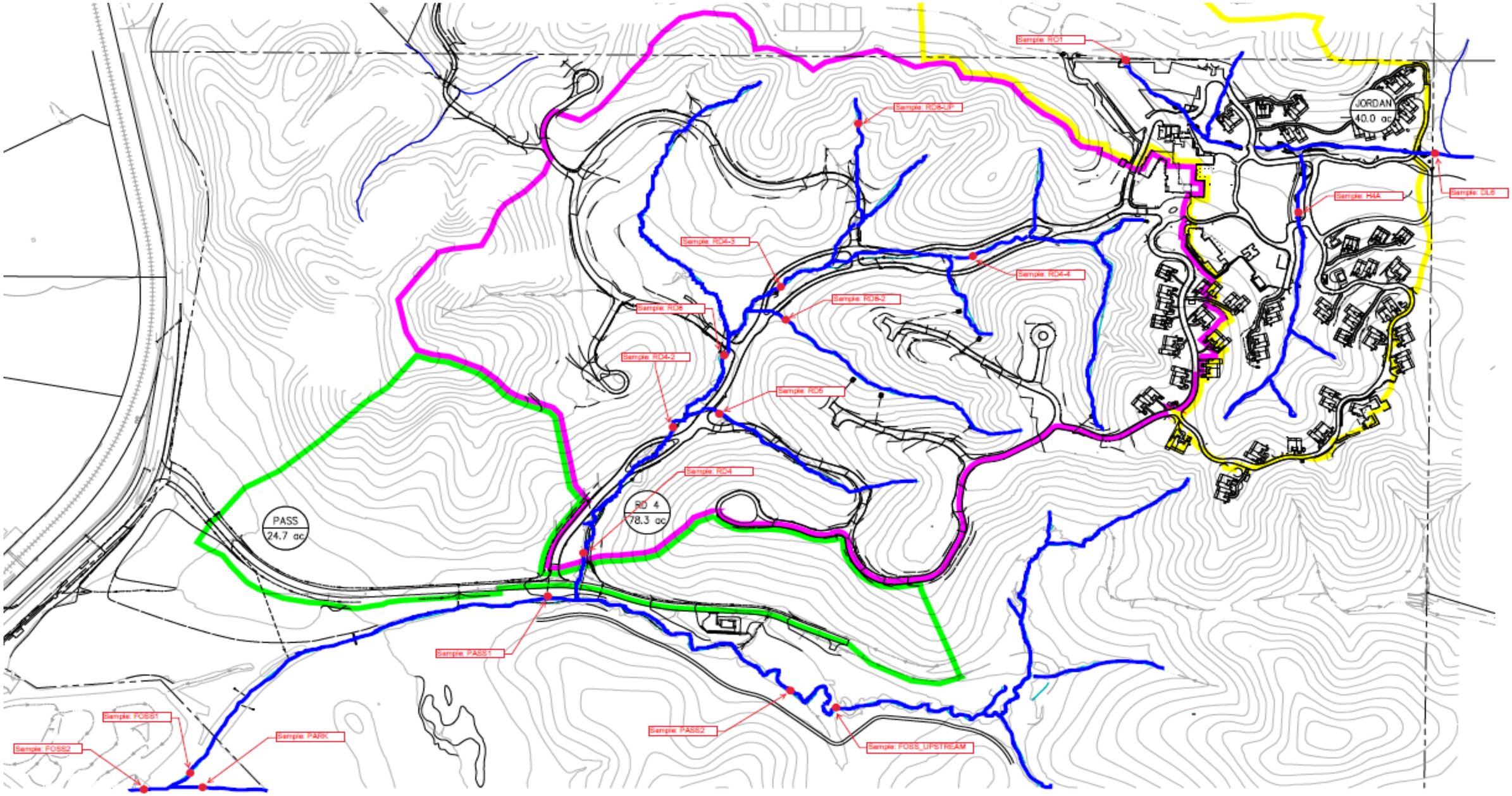

Figure 1. Receiving Water Sampling Locations