

Means, Christopher@Waterboards

From: Means, Christopher@Waterboards
Sent: Wednesday, June 22, 2016 9:01 AM
To: Lormon, John J. (john.lormon@procopio.com); Rmertz@kbhome.com; Barry Jones (BarryJ@helixepi.com); Kurt Bausback (kbausb@kbhome.com)
Cc: Clemente, Chiara@Waterboards; Kaplowitz, Naomi@Waterboards; Haas, Jeremy@Waterboards; Jayne, Deborah@Waterboards; Hagan, Catherine@Waterboards; Smith, James@Waterboards; Boyers, David@Waterboards; Porter, Mike@Waterboards; Adriana.Munoz@waterboards.ca.gov; Honma, Lisa@Waterboards; Becker, Eric@Waterboards
Subject: Evidence and Policy Statements submittal, KB Home ACLC R9-2016-0092
Attachments: Evidence Submit ltr R920160092.pdf

All,

In accordance with the Hearing Procedures for Administrative Civil Liability Complaint R9-2016-0092 issued to KB Home, the Prosecution Team of the San Diego Water Board submits the Evidence and Policy Statement as required.

Attached you will find the Prosecution Teams transmittal letter to the Advisory Team. Electronic copies of the package (CD) have been mailed to KB Home, Procopio and Helix Environmental Planning staff.

A copy of the complete submission package is available for immediate download via our FTP site. The package consist of:

- 1) Evidence submission transmittal letter, dated June 22, 2016
- 2) Exhibit list
- 3) Pdf copies of exhibits 1-43

To access the FTP site simply connect via url : <https://ftp.waterboards.ca.gov>

USER ID: RB9Public
User Password: rqfa51
File Name: KB Home_R920160092_CJM

Please contact me if you have any problems accessing the material, email is preferred.

Respectfully,

Christopher Means
Environmental Scientist
Compliance Assurance Unit
San Diego RWQCB
Phone: 619-521-3365
Email: cmeans@waterboards.ca.gov



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Diego Regional Water Quality Control Board

June 22, 2016

Catherine Hagan
Senior Staff Counsel
Office of Chief Counsel
State Water Resources Control Board
2375 Northside Drive, Suite 100
San Diego, California 92108-0002
chagan@waterboards.ca.gov

In reply refer to: SM-826199:CMean

Evidence and Policy Statements, ACL Complaint No. R9-2016-0092

In accordance with the Hearing Procedure for Administrative Civil Liability (ACL) Complaint No. R9-2016-0092, issued to KB Home, the Prosecution Team submits the following information:

1. A list of all evidence utilized in drafting, and supporting the issuance of the ACL Complaint Package, attached and marked as Exhibits Nos. 1- 45;
2. ACL Complaint No. R9-2016-0092, its technical analysis, and all attachments (ACL Complaint package) thereto;¹ attached and marked as Exhibit Nos. 2-5;
3. United States Postal Service Domestic Return Receipt No. 9590 9403 0584 5183 2019 96 proving service via certified mail of the ACL Complaint package to Mr. Ron Mertz, Legally Responsible Person for KB Home, attached and marked as Exhibit No. 6;
4. California Regional Water Quality Control Board, San Diego Region (San Diego Water Board Resolution No. R9-2015-0041, Resolution to Support Restoration of Aquatic Ecosystems in the San Diego Region. The document is incorporated by reference and can be downloaded from the San Diego Water Board's website at:

http://www.waterboards.ca.gov/sandiego/board_decisions/adopted_orders/2015/R9-2015-0041.pdf.
5. San Diego Water Board Water Quality Control Plan for the San Diego Basin (Basin Plan). The document is incorporated by reference and can be downloaded from the San Diego Water Board's website at:

¹ The ACL Complaint package was provided to the Advisory Team and KB Home on April 22, 2016.

http://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/index.shtml

Legal and Technical Arguments or Analysis

This information was provided with the ACL Complaint package.

Witnesses

The following people may be used as Prosecution Team witnesses:

Name	Subject	Estimated Testimony Time	Qualifications
Chiara Clemente, San Diego Water Board	Introduction, Administrative analysis of San Diego Water Board's regulatory oversight of the site.	5 minutes. Available upon request during ACL Hearing.	Senior Environmental Scientist, Supervisor of the Compliance Assurance Unit.
Christopher Means, San Diego Water Board	Technical and Administrative analysis of San Diego Water Board's regulatory oversight of the site.	45 minutes	Environmental Scientist, Compliance Assurance Unit
James Smith, San Diego Water Board	Closing remarks. Administrative analysis of San Diego Water Board's regulatory oversight of the site.	5 minutes. Available upon request during ACL Hearing.	Assistant Executive Officer, Head of the Prosecution Team.
Bryan Elder, State Board	Economic Benefit analysis.	None. Available upon request during ACL Hearing.	WRC Engineer, Office of Enforcement, State Water Resources Control Board
Eric Becker, San Diego Water Board	401 certification process, Discovery of violation, Waters of the US on Brightwater property.	None. Available upon request during ACL Hearing.	WRC Engineer, Supervisor of the Wetland and Riparian Protection Unit

Catherine Hagan
Office of Chief Counsel
State Water Resources Control Board
ACL Complaint No. R9-2016-0092

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June 22, 2016

In the subject line of any response, please include the requested "**In reply refer to:**" information located in the heading of this letter. For questions pertaining to the subject matter, please contact Christopher Means at (619) 521-3365 or by email at Christopher.Means@waterboards.ca.gov.

Respectfully,



Chiara Clemente
Senior Environmental Scientist
San Diego Water Board

Enclosures:

1. Evidence and Policy Submission List
2. Exhibit Nos. 1-45

cc without enclosures:

Chiara Clemente, San Diego Water Board, cclemente@waterboards.ca.gov
Naomi Kaplowitz, State Water Resources Control Board, Naomi.Kaplowitz@waterboards.ca.gov
Jeremy Haas, San Diego Water Board, jhaas@waterboards.ca.gov
Deborah Jayne, San Diego Water Board, djayne@waterboards.ca.gov
James Smith, San Diego Water Board, jsmith@waterboards.ca.gov
David Boyers, State Water Resources Control Board, David.Boyers@waterboards.ca.gov
Mike Porter, San Diego Water Board, Mike.Porter@waterboards.ca.gov
Adriana Nunez, State Water Board, Adriana.Nunez@waterboards.ca.gov

cc with enclosures CD:

John Lormon, Procopio, John.lormon@procopio.com
Barry Jones, Helix Environmental Planning Inc., BarryJ@helixepi.net
Ron Mertz, KB Home, Rmertz@kbhome.com
Kurt Bausback, KB Home, Kbausback@kbhome.com

CIWQS:

Place ID: SM-826199
Enforcement ID: 405422

Evidence and Policy Submission

Exhibit No.	Date	Title	Author	ECM Doc Handle
1	2003	Where Rivers Are Born: The Scientific Imperative for Defending Small Streams and Wetlands	Meyer et al.	2272547
2	04/22/2016	ACLC R9-2016-0092, KB Home, transmittal letter	San Diego Water Board	2293328
3	04/22/2016	ACLC R9-2016-0092, KB Home	San Diego Water Board	2293323
4	04/22/2016	ACLC R9-2016-0092, KB Home, Technical Analysis	San Diego Water Board	2293336
5	04/22/2016	ACLC R9-2016-0092, KB Home, Technical Analysis Appendices	San Diego Water Board	2293343
6	04/25/2016	KB Home ACLC certified mail receipt	USPS	2278946
7	04/22/2016	Email dissemination of ACL complaint package to interested parties	San Diego Water Board	2278377
8	02/2006	Biological Technical Report for Settler's Point Subdivision and Rezone	Robin Church	2270037
9	07/31/2008	Settlers Point Updated Project Description	REC Consultants	2270127
10	06/05/2009	Centex Homes Permission to grade letter	Centex Homes	2270249
11	06/2009	Drainage Study for Settlers Point	REC Consultants	2270566
12	02/10/2012	CEQA Initial Study for Settlers Point Project	County of San Diego	2270271
13	02/10/2012	CEQA Mitigated Negative Declaration for Settlers Point Project	County of San Diego	2270278
14	03/19/2013	Settlers Point Project No. PDS2013-STP-13-002 Updated Project Description	REC Consultants	2270078
15	05/09/2014	KB Home Due Diligence Assessment for Settlers Point Project	Helix Environmental Planning	2270438
16	03/10/2015	Pages 126-154, Preliminary Jurisdictional Delineation Report from Pulte Home Request for Clean Water Act Section 401 Water Quality Certification. The rest of the Application Package is incorporated by reference.	Helix Environmental Planning	2270305
17	04/09/2015	Pulte Home Brightwater Ranch 401 cert. application incomplete letter	Lisa Honma	2296991
18	07/01/2015	San Diego Water Board Site Inspection Report Brightwater Ranch/Settlers point	Lisa Honma	2270444
19	07/01/2015	07/01/2015 Inspection Photos Brightwater Ranch/Settlers Point	Lisa Honma	2296963
20	07/10/2015	KB Home Timeline of Events	Helix Environmental Planning	2270516

Evidence and Policy Submission

Exhibit No.	Date	Title	Author	ECM Doc Handle
21 a & b	08/13/2015	NOV R9-2015-0120 & Transmittal letter	Christopher Means	2270478, 2270482
22	07/07/2015	Diagram of Impacted waters of the US/State, Brightwater Ridge Property (Cropped)	Helix Environmental Planning	2270538
23	07/01/2015	Knuckle diagram with SW inlets identified	Lisa Honma	2299678
24	07/14/2015	Pulte Home email to Eric Becker, re discharge of fill on Brightwater Ridge Property	Pulte home	2271728
25	07/16/2015	Email chain regarding request for 2009 drainage study for Settler's Point	Barry Jones, Christopher Means	2297019
26	08/18/2014	Stormwater Pollution Prevention Plan for Settlers Point. PDF provided, Incorporated by reference into hard copy	Waterlogged	2270509
27	07/21/2015	Inspection photos, Road Knuckle	Christopher Means	2271636
28	08/2015	County of San Diego Design Standard DS-15 for Street Knuckle	County of San Diego	2297277
29	07/15/2015	Information request email to County of San Diego	Christopher Means, Beth Ehsan	2297080
30	08/11/2015	County of San Diego response to questions about knuckle review and CEQA process	County of San Diego	2297305
31	07/07/2015	Diagram of Impacted waters of the US/State, Brightwater Ridge Property, (original)	Helix Environmental Planning	2293291
32	02/06/2014	Settlers Point Mitigation Purchase Crestridge Conservation Bank	J Whalen Assoc.	2293244
33	03/2006	Cultural Resource Evaluation of Settlers Point property. PDF available. Incorporated by reference into hard copy.	Affinis	2293250
34	06/2009	Settlers Point Stormwater Management Plan, 2009. PDF available. Incorporated by reference into hard copy.	REC Consultants	2293268
35	07/06/2015	Helix Environmental email confirming knuckle acres of impact and linear feet	Barry Jones, Lisa Honma	2297043
36	10/30/2015	Helix Environmental memorandum of alternative fill volume calculation	Helix Environmental Planning	2271531
37	03/14/2016	BEN Model economic benefit analysis	Bryan Elder	2305650
38	10/30/2015	KB Home Construction notes on road knuckle	KB Home	2771534

Evidence and Policy Submission

Exhibit No.	Date	Title	Author	ECM Doc Handle
39	07/01/2015	Brightwater Ranch, Inspection notes re jurisdictional delineation verification	Lisa Honma	2294973
40	08/29/2015	Sign in sheet for August 19, 2015 meeting with KB Home	Christopher Means	2297271
41	08/18/2015	Estimation of Fill email	Procopio	2271595
42	07/02/2015	KB Home Meeting request email	Helix Environmental Planning	2297033
43	03/15/2016	Staff costs spreadsheet	San Diego Water Board	2305598
44	06/24/2015	Order No. R9-2015- 0041, Resolution to Support Restoration of Aquatic Ecosystems in the San Diego Region. Available on web at: www.waterboards.ca.gov/sandiego/ . Incorporated by reference.	San Diego Water board	n/a
45	08/28/2012	San Diego Water Board Basin Plan, Available on web at : www.waterboards.ca.gov/sandiego/ . Incorporated by reference.	San Diego Water board	n/a