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MATTHEW RODRIGUEZ
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ENVIRONMENTAL PROTECTION

California Regional Water Quality Control Board, San Diego Region

May 18, 2015

David Shissler
Director of Water Quality
City of Laguna Beach
505 Forest Avenue
Laguna Beach, CA 92651
dshissler@lagunabeachcity.net

In reply refer to / attn:
Place ID: CW-236118:LWalsh

Subject: Water Code Section 13267 Request for a Technical Report Regarding Alleged Discharges from the Three Arches Bay Residential Community

Mr. Shissler:

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) received reports from a citizen complainant of alleged sediment laden storm water discharges into the City of Laguna Beach (City) municipal separate storm sewer system (MS4). The discharges are reportedly coming from eroding earthen slopes and failing storm water flow control structures within the Three Arches Bay residential community and discharging into the City's MS4 near the 32000 block of Virginia Way and from the City's MS4 into the Pacific Ocean. According to information provided by the complainant, the City has known about these discharges since 2001.

As the owner and operator of the MS4, the City has applied for and received coverage under Order No. R9-2013-0001, *National Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges of Runoff from the Municipal Separate Storm Sewer System (MS4) Draining the Watersheds within the San Diego Region* (Regional MS4 Permit). As a Copermittee under the requirements of the Regional MS4 Permit, the City is required to comply with permit conditions relating to discharges from the MS4 for which they are operators. The Regional MS4 Permit includes requirements in provision E that the City effectively prohibit non-storm water discharges into its MS4, and implement controls to reduce the discharge of pollutants in storm water to the maximum extent practicable (MEP).

As an operator of the MS4, the City of Laguna Beach cannot passively receive illicit discharges of pollutants by third parties into the City's MS4. By providing free and open access to a MS4 that conveys discharges to waters of the U.S., the City essentially accepts responsibility for discharges into the MS4 that it does not prohibit or otherwise control. Waste and pollutants which are deposited and accumulate in MS4 drainage structures will be discharged from these structures to waters of the U.S. unless they are removed or controlled prior to entering the MS4. Therefore, if the alleged sediment laden storm water discharges into the MS4 are

HENRY ABARBANEL, CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

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occurring, the City would be responsible for both controlling the discharges and addressing any associated noncompliance with the Regional MS4 Permit.

Therefore, pursuant to Water Code section 13267¹, this letter serves as a request for the City to submit a Technical Report no later than 5:00 p.m. on July 17, 2015 containing the following information:

- 1 The results of the City's investigation of the alleged sediment laden storm water discharges from the Three Arches Bay Residential Community;
- 2 A description of any associated noncompliance with the Regional MS4 Permit and its cause; *and*
- 3 If the noncompliance has not been corrected; the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

The Technical Report is necessary for the San Diego Water Board to better determine the state of the City's compliance with the Regional MS4 Permit as well as the potential or actual harm to human health or the environment from any noncompliance. The burden, including costs of the report, bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.

Please format any written correspondence in response to this letter as an electronic document(s) and submit it to SanDiego@waterboards.ca.gov. The electronic document(s) must be submitted as a single file, in Portable Document Format (PDF) format, and converted to text searchable format using Optical Character Recognition (OCR). The electronic document(s) 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: **PIN: CW-236118:LWalsh**.

For questions pertaining to the subject matter, please contact Laurie Walsh at (619) 521-3373 or Laurie.Walsh@waterboards.ca.gov.

Respectfully,



JAMES SMITH
Assistant Executive Officer

¹ Water Code section 13267 (b) broadly authorizes the Water Boards to conduct investigations and to require technical or monitoring reports from any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste in accordance with the conditions in the section.

JS:dtb:esb:law

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Tech Staff Info & Use	
Order No.	R9-2013-0001
NPDES No.	CAS0109266
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