



**Santa Ana Regional Water Quality Control Board**

May 1, 2018

Mr. Jett McCormick  
LBA Realty Fund III Company VIII, LLC  
3347 Michelson Drive, Suite 200  
Irvine, CA 92612

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Ms. Vivian Imperial (Agent for Service of Process)  
National Registered Agents, Inc.  
818 W Seventh Street, Suite 930  
Los Angeles, CA 92505

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**TRANSMITTAL OF MANDATORY MINIMUM PENALTY (MMP) COMPLAINT NO. R8-2018-0078, LBA REALTY FUND III COMPANY VIII LLC, WDID NO. 8 33C378515**

Dear Mr. McCormick:

Enclosed is Mandatory Minimum Penalty Complaint No. R8-2018-0078 (Complaint). The Complaint alleges that LBA Realty Fund III Company VIII, LLC has violated the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ as amended by Order No. 2010-0014-DWQ and Order No. 2012-0006-DWQ, NPDES No. CAS000002 (Construction General Permit). LBA Realty Fund III Company VIII, LLC failed to submit the 2016-2017 annual report by September 1, 2017 for the construction site identified as 797 and 799 Palmyrita Avenue, in the City of Riverside.

The attached Complaint proposes that a penalty, in the amount of two thousand, five hundred seventy-two dollars (\$2,572) be imposed. The penalty amount is comprised of mandatory minimum penalties and staff costs as authorized by California Water Code sections 13399.33(c) and 13399.33(d).

A public hearing on this matter is scheduled for the Santa Ana Regional Water Quality Control Board (Regional Board) meeting on **July 27, 2018**.

A proposed Order, the staff report regarding this Complaint, and the meeting agenda will be provided to you not less than 10 days prior to the hearing. A meeting agenda will also be available at: [http://www.waterboards.ca.gov/santaana/board\\_info/agendas/](http://www.waterboards.ca.gov/santaana/board_info/agendas/).

Pursuant to California Water Code section 13323, LBA Realty Fund III Company VIII, LLC has the option to waive its right to a hearing. Should LBA Realty Fund III Company VIII, LLC waive

its right to a hearing and pay the proposed assessment, the Regional Board may not hold a public hearing on this matter.

If LBA Realty Fund III Company VIII, LLC chooses to waive its right to a hearing, please sign and submit the enclosed Waiver Form by **May 31, 2018**. Please make the check payable to the Waste Discharge Permit Fund for two thousand, five hundred seventy-two dollars (\$2,572) and include the Complaint number (R9-2018-0078) on the memo line. Please send the waiver and payment to the appropriate locations below:

**Mail Waiver Form to:**

RWQCB  
Attn: Keith Elliott  
3737 Main Street, Suite 500  
Riverside, CA 92501

**Mail Payment to:**

SWRCB – Accounting Office  
Attn: Storm Water MMP Payment  
P.O. Box 1888  
Sacramento, CA 95812-1888

If the LBA Realty Fund III Company VIII, LLC does not wish to waive its right to a hearing, a pre-hearing meeting is recommended. To schedule a pre-hearing meeting, please submit your request to Keith Elliott at [keith.elliott@waterboards.ca.gov](mailto:keith.elliott@waterboards.ca.gov) or by phone at (951) 782-4925 prior to **May 3, 2018**.

A Proposed Hearing Procedure pertaining to this Complaint is also enclosed. The Proposed Hearing Procedure sets forth important requirements and deadlines for participation in the hearing. Additionally, a Fact Sheet describing the complaint process is available at:

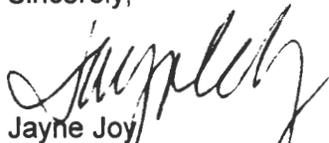
[http://www.waterboards.ca.gov/santaana/public\\_notices/enforcement\\_actions.shtml](http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml)

The Fact Sheet describes the complaint process and explains what LBA Realty Fund III Company VIII, LLC can expect and its obligations as the process proceeds. If preferred, a hard copy of the Fact Sheet may be obtained by contacting Keith Elliott at [kelliott@waterboards.ca.gov](mailto:kelliott@waterboards.ca.gov) or by phone (951) 782-4925.

Please read the Proposed Hearing Procedure carefully. The Regional Board may adopt an Order requiring that you pay a penalty.

If you have any questions regarding the Complaint or the enclosed documents, please contact Keith Elliott at [kelliott@waterboards.ca.gov](mailto:kelliott@waterboards.ca.gov) or by calling (951) 782-4925. All legal questions should be directed to Catherine Hawe, Office of Enforcement, by email at [catherine.hawe@waterboards.ca.gov](mailto:catherine.hawe@waterboards.ca.gov) or by phone at (916) 322-3538.

Sincerely,



Jayne Joy  
Assistant Executive Officer  
Regional Board Prosecution Team

Enclosures: MMP Complaint No. R8-2018-0078  
Proposed Hearing Procedure  
Waiver Form

Attachment 1: 1<sup>st</sup> Notice of Non-Compliance, dated 9/12/17  
Attachment 2: 2<sup>nd</sup> Notice of Non-Compliance, dated 10/18/17  
Attachment 3 Expedited Payment Letter, dated 3/6/18

cc: Regional Board

Mrs. Hope Smythe, RWQCB

Ms. Teresita Sablan, Office of Chief Counsel, SWRCB

[Teresita.Sablan@waterboards.ca.gov](mailto:Teresita.Sablan@waterboards.ca.gov)

Ms. Catherine Hawe, Office of Enforcement, SWRCB,

[Catherine.Hawe@waterboards.ca.gov](mailto:Catherine.Hawe@waterboards.ca.gov)

Ms. Andrea Gonzalez, County of Riverside Program Manager, [jgonzale@rivco.org](mailto:jgonzale@rivco.org)

Mr. Michael Roberts, City of Riverside NPDES Coordinator, [mdroberts@riversideca.gov](mailto:mdroberts@riversideca.gov)

**State of California  
California Regional Water Quality Control Board  
Santa Ana Region**

IN THE MATTER OF:

Mr. Jett McCormick	)	
LBA Realty Fund III Company VIII, LLC	)	
3347 Michelson Drive, Suite 200	)	Complaint No. R8-2018-0078
Irvine, CA 92612	)	
<u><a href="mailto:jmccormick@lbarealty.com">jmccormick@lbarealty.com</a></u>	)	for
Ms. Vivian Imperial	)	Mandatory Minimum Penalty
(Agent for Service of Process)	)	and Staff Costs
National Registered Agents, Inc.	)	
818 West Seventh Street, Suite 930	)	
Los Angeles, CA 90017	)	
	)	

**YOU ARE HEREBY GIVEN NOTICE THAT:**

1. You are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), must impose liability under section 13399.33 of the California Water Code.
2. Unless waived, a hearing concerning this Complaint will be held before the Regional Board at its regular meeting on **July 27, 2018**, at the City of Huntington Beach, 2000 Main Street, Huntington Beach, California. A LBA Realty Fund III Company VIII, LLC representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of penalties by the Regional Board. An agenda for the meeting will be provided to LBA Realty Fund III Company VIII, LLC not less than 10 days before the hearing date. A meeting agenda will also be available at: [http://www.waterboards.ca.gov/santaana/board\\_info/agendas/](http://www.waterboards.ca.gov/santaana/board_info/agendas/).
3. LBA Realty Fund III Company VIII, LLC can waive its right to a hearing to contest the allegation contained in this Complaint by signing and submitting the enclosed Waiver Form and paying the liability in full or by taking other actions as described in the Waiver Form.
4. If LBA Realty Fund III Company VIII, LLC does not waive its right to a hearing, a hearing will be held in accordance with the attached Proposed Hearing Procedure for Complaint No. R8-2018-0078. At the hearing, the Regional Board will hear evidence, determine facts, make conclusions of law and consider whether to issue an Administrative Civil Liability Order assessing the proposed liability or a higher or lower amount. the Regional Board will consider whether to affirm, reject, or modify the proposed mandatory minimum penalties and assessment of costs pursuant to Water Code section 13399.33, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
5. There are no statutes of limitations that apply to administrative proceedings. The statutes of limitations that refer to "actions" and "special proceedings" and are contained in the California Code of Civil Procedure apply to judicial proceedings, not administrative

proceedings. See *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal. App. 4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, Section 405(2), p. 510.) Additionally, the State Water Resources Control Board (State Board) determined that the equitable doctrine of laches does not apply to mandatory minimum penalties. (State Board Order Nos. 2013-0053, 2013-0054, 2013-0055, and 2013-0099.)

6. Notwithstanding the issuance of this Complaint, the Regional Board shall retain the authority to assess additional penalties for violations not cited herein.
7. This enforcement action is exempt from the provisions of the California Environmental Quality Act, California Public Resources Code section 21000 et seq., in accordance with California Code of Regulations, title 14, section 15321.

**THIS COMPLAINT IS BASED ON THE FOLLOWING FACTS:**

8. The construction site, WDID **8 33C378515** identified as 797 and 799 Palmyrita Avenue, in the City of Riverside, is regulated under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ as amended by Order No. 2010-0014 and Order No. 2012-0006, NPDES No. CAS000002 (Construction General Permit).
9. Section XVI.A. of the Construction General Permit requires that an annual report be submitted by September 1st each year via the online SMARTS database. LBA Realty Fund III Company VIII, LLC's 2016-2017 annual report was not received by the September 1, 2017 deadline.
10. A Notice of Non-Compliance (NNC) was issued to LBA Realty Fund III Company VIII, LLC, by certified mail, on September 12, 2017. The NNC requested that LBA Realty Fund III Company VIII, LLC submit the 2016-2017 annual report by October 13, 2017 to the Regional Board. Certified mail receipts establish that the NNC was received on September 19, 2017. The September 12, 2017 NNC and return receipt are attached to this Complaint as Attachment 1.
11. Regional Board staff did not receive a response to the September 12, 2017 NNC, therefore, a second NNC was issued on October 18, 2017. The October 18, 2017 NNC requested that LBA Realty Fund III Company VIII, LLC submit the 2016-2017 annual report by November 13, 2017. Certified mail receipts establish that the NNC was received on October 30, 2017. The October 18, 2017 2<sup>nd</sup> NNC and return receipt are attached to this Complaint as Attachment 2.
12. On August 21, 2017 State Board staff sent an email to all active Construction General Permit facility owners reminding them that the annual report was due on September 1, 2017 and to contact them if they needed assistance accessing the SMARTS system.
13. On December 12, 2017, Regional Board staff visited the site and determined that construction appeared to be complete and stable, except for the northeast corner of the property where a slope was cut. There was bonded fiber matrix sprayed on the slope and possibly hydroseed. If so, the seed had not germinated. Tenants appeared to have moved into the building and a Notice of Termination had not been submitted for the site.

14. On December 14, 2017 at 2:22 pm Regional Board staff spoke to Luke Gorsby a consultant of LBA Realty Fund III Company VIII, LLC, regarding the site. Luke's phone number is 949-788-4059.  
  
On March 6, 2018, the Chief Prosecutor of the Regional Board issued Settlement Offer No. R8-2018-0040 (Settlement Offer) to invite LBA Realty Fund III Company VIII, LLC to participate in the Expedited Payment Letter program. The Settlement Offer included copies of the September 12, 2017 and October 18, 2017 NNCs informing LBA Realty Fund III Company VIII, LLC of its failure to submit required annual reports. The Settlement Offer indicated that the violation is subject to a mandatory minimum penalty of \$1,000 plus staff costs. Certified mail receipts establish that the Settlement Offer was received on March 8, 2018.
15. On March 6, 2018 Regional Board staff sent an email to Jett McCormick [jmccormick@lbarealty.com](mailto:jmccormick@lbarealty.com) with the Settlement Offer attached. Read receipts confirm that the email was opened on March 13, 2018 at 2:16 pm.
16. On March 23, 2018, Regional Board staff spoke with the Qualified Stormwater Pollution Prevention Plan Developer who prepared the Stormwater Pollution Prevention Plan for the site, Patricia Castillo, regarding the delinquent annual report.
17. On March 29, 2017 Regional Board staff left a voice mail message for Jett McCormick.
18. On March 30, 2018 LBA Realty Fund III Company VIII, LLC submitted the 2016-2017 Annual Report, 210 days after the deadline.
19. Regional Board staff left voice mail messages on April 2<sup>nd</sup> 08:15 am; April 3<sup>rd</sup> 3:10 pm, and April 5<sup>th</sup> at 3:20 pm regarding LBA Realty Fund III Company VIII, LLC's Construction General Permit for 797 and 799 Palmyrita Avenue Riverside, CA. The voicemails requested Mr. McCormick contact Regional Board Staff to resolve the penalties.
20. On April 5, 2017 Regional Board staff resent the Settlement Offer by e-mail to Jett McCormick [jmccormick@lbarealty.com](mailto:jmccormick@lbarealty.com).
21. Staff estimates that staff spent 8 hours performing the above steps.

## LEGAL AUTHORITY

22. Water Code section 13399.31, subdivision (d), provides that "[i]f a discharger to which a notice is sent pursuant to subdivision (c) fails to submit the annual report ... to the regional board within 60 days from the date on which the notice is sent pursuant to subdivision (b), the regional board shall impose the penalties described in subdivision (c) of Water Code section 13399.33."
23. Water Code section 13399.33, subdivision (c) requires the regional board to assess a mandatory minimum penalty of \$1,000 for each violation when the discharger fails to submit an annual report in accordance with Water Code section 13399.31.
24. Water Code section 13399.33, subdivision (d) provides that the regional board shall "[r]ecover from the persons described in subdivisions (a), (b), and (c) the costs incurred by the regional board in regard to those persons."

25. While this Complaint only seeks the mandatory minimum penalty amount pursuant to Water Code section 13399.33, the maximum amount of administrative civil liability assessable pursuant to Water Code section 13385, subdivision (c) is \$10,000 per day per violation.

## VIOLATION

26. **Failure to Submit the 2016-2017 Annual Report:** The September 12, 2017 and October 18, 2017 NNCs gave LBA Realty Fund III Company VIII, LLC notice that it was obligated to submit the annual report to comply with the Construction General Permit. The annual report was submitted 210 days late on March 30, 2018. Therefore, this violation is subject to a mandatory minimum penalty in the amount of \$1,000 plus staff costs.

## PROPOSED MANDATORY MINIMUM PENALTIES AND ASSESSMENT OF COSTS

27. Pursuant to Water Code section 13399.33(c), the Regional Board shall administratively impose a penalty in an amount that is not less than one thousand dollars (\$1,000) for the violation cited above.
28. Based on the non-submittal of the 2016-2017 annual report by September 1, 2017, LBA Realty Fund III Company VIII LLC is alleged to have violated the Construction General Permit for 210 days (from September 2, 2017 to March 30, 2018).
29. Water Code section 13399.33(d) allows for the recovery of costs incurred by the Regional Board for enforcement actions against dischargers who fail to submit the required annual report. Regional Board staff spent approximately eight (8) hours at \$139/hr, staff's supervisor spent about two (2) hours at \$131/hr, and the Assistant Executive Officer spent approximately one (1) hour at \$198/hr for this enforcement action resulting in total staff costs of \$1,572. The total liability, including staff costs, is \$2,572 (\$1,000 mandatory penalty+\$1,572 in staff costs).

## WAIVER OF HEARING

LBA Realty Fund III Company VIII, LLC may waive its right to a hearing. If LBA Realty Fund III Company VIII, LLC chooses to do so, please sign the enclosed Waiver Form and return it, together with a check for **\$2,572**. Indicate **"R8-2018-0078"** on the check and make it payable to the **State Water Resources Control Board Waste Discharge Permit Fund**. Send the check to the following address:

State Water Resources Control Board  
Division of Administrative Services  
Accounting Branch  
P.O. Box 1888  
Sacramento, CA 95814

The waiver and a copy of the check shall also be mailed to the Regional Board at the following address:

Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501-3348  
Attention: Keith Elliott

5/1/2018

Date



Jayne Joy  
Assistant Executive Officer  
Regional Board Prosecution Team



**Santa Ana Regional Water Quality Control Board**

**California Regional Water Quality Control Board  
Santa Ana Region**

**PROPOSED HEARING PROCEDURE  
FOR MANDATORY MINIMUM PENALTY COMPLAINT  
NO. R8-2018-0078  
ISSUED TO**

**Mr. Jett McCormick  
LBA Realty Fund III Company VIII, LLC  
3347 Michelson Drive, Suite 200  
Irvine, CA 92612**

**Ms. Vivian Imperial (Agent for Service of Process)  
National Registered Agents, Inc.  
818 W Seventh Street, Suite 930  
Los Angeles, CA 92505**

**For the Construction Site  
797 and 799 Palmyrita Avenue  
Riverside, CA  
Riverside County**

**SCHEDULED FOR JULY 27, 2018 BOARD MEETING**

**PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.**

**Background**

On May 1, 2018, the Assistant Executive Officer, acting as head of the Santa Ana Regional Water Quality Control Board (Regional Board) Prosecution Team, issued a Mandatory Minimum Penalty Complaint (Complaint) pursuant to California Water Code (Water Code) Section 13323 against LBA Realty Fund III Company VIII, LLC. In the complaint Regional Board staff alleges LBA Realty Fund III Company VIII, LLC violated the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Use Disturbance Activities, Order No. 2009-0009-DWQ as amended by Order No. 2010-0014-DWQ and Order No. 2012-0006-DWQ, NPDES No. CAS000002 (Construction General Permit) by failing to submit its 2016-2017 annual report by September 1, 2017.

WILLIAM RIJH, CHAIR | HOPE A. SMYTHE, EXECUTIVE OFFICER

3737 Main St Suite 500 Riverside CA 925 | [www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana)

♻️ RECYCLED PAPER

This Complaint proposes that the Regional Board impose a mandatory minimum penalty and staff costs in the amount of two thousand, five hundred seventy-two dollars (\$2,572) pursuant to Water Code Section 13399.33. Unless LBA Realty Fund III Company VIII, LLC pays the proposed liability, a hearing will be held before the Regional Board during its **July 27, 2018** meeting.

### **Purpose of Hearing**

The purpose of the hearing is to consider relevant evidence and testimony regarding the Complaint and any proposed Order. At the hearing, the Regional Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability.

The public hearing will be held on **JULY 27, 2018**, and will commence no earlier than 9:00 a.m., as soon thereafter as practical, or as announced in the Regional Board meeting agenda. The meeting will be held at the City of Huntington Beach, 2000 Main Street, Huntington Beach, CA 92648.

Any proposed Order and an agenda for the meeting will be issued at least ten days before the meeting and posted on the Regional Board's web page at:  
[http://www.waterboards.ca.gov/santaana/board\\_info/agendas/](http://www.waterboards.ca.gov/santaana/board_info/agendas/)

### **Hearing Procedure**

The hearing will be conducted in accordance with this Proposed Hearing Procedure. If the Advisory Team takes no action in regard to the Proposed Hearing Procedure, this document will become the final hearing procedure on **June 22, 2018**. The procedures governing adjudicatory hearings before the Regional Board may be found at California Code of Regulations, title 23, section 648 *et seq.*, and are available at:  
<http://www.waterboards.ca.gov>

Copies will be provided upon request. In accordance with Section 648(d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648(b) and herein, Chapter 5 of the Administrative Procedures Act (Gov. Code, § 11500 *et seq.*) does not apply to this hearing.

LBA Realty Fund III Company VIII, LLC shall attempt to resolve objections to this Hearing Procedure with the Prosecution Team BEFORE submitting objections to the Advisory Team.

### **Separation of Prosecutorial and Advisory Functions**

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (the Prosecution Team) have been separated from those who will provide legal and technical advice to the Regional Board (the Advisory Team). Members of the Advisory Team are: Hope Smythe, Executive Officer and Teresita Sablan, Staff Counsel. Members of the Prosecution Team are: Jayne Joy, Assistant Executive Officer; Adam Fischer, Senior Environmental Scientist; Keith Elliott, PE, Water Resource Control Engineer; and Catherine Hawe, Attorney, Office of Enforcement.

Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding and vice versa. Other members of the Prosecution Team act or have acted as advisors to the Regional Board in other unrelated matters but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team have not had any *ex parte* communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

### **Hearing Participants**

Participants in this proceeding are designated as either "Designated Parties" or "Interested Persons." Designated Parties may present evidence and cross-examine witnesses and are subject to cross-examination. Interested Persons may present non-evidentiary policy statements but may not cross-examine witnesses and are not subject to cross-examination. Interested Persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). At the hearing, both Designated Parties and Interested Persons may be asked to respond to clarifying questions from the Regional Board, staff, or others, at the discretion of the Board Chair.

The following participants are hereby designated as Designated Parties in this proceeding:

1. Regional Board Prosecution Team
2. LBA Realty Fund III Company VIII, LLC

### **Requesting Designated Party Status**

Persons who wish to participate in the hearing as a Designated Party must request designated party status by submitting a request in writing so that it is received no later than the deadline listed under "Important Deadlines" below. The request shall include an explanation of the basis for status as a Designated Party (i.e., how the issues to be addressed at the hearing affect the person, the need to present evidence or cross-examine witnesses), along with a statement explaining why the parties listed above do not adequately represent the person's interest. Any objections to these requests for designated party status must be submitted so that they are received no later than the deadline listed under "Important Deadlines" below.

**Primary Contacts**

**Advisory Team:**

General

Hope Smythe, Executive Officer  
Regional Water Quality Control Board – Santa Ana Region  
3737 Main Street, Suite 500, Riverside, CA 92501  
Phone: (951) 782-4493  
[hope.smythe@waterboards.ca.gov](mailto:hope.smythe@waterboards.ca.gov)

Legal

Teresita Sablan  
State Water Resources Control Board  
P.O. Box 100, Sacramento, CA 95812  
Phone: (916) 341-5174  
[Teresita.Sablan@waterboards.ca.gov](mailto:Teresita.Sablan@waterboards.ca.gov)

**Prosecution Team:**

General

Keith Elliott, PE  
Regional Water Quality Control Board – Santa Ana Region  
3737 Main Street, Suite 500, Riverside, CA 92501  
Phone: (951) 782-4925  
[keith.elliott@waterboards.ca.gov](mailto:keith.elliott@waterboards.ca.gov)

Legal

Catherine Hawe  
State Water Resources Control Board, Office of Enforcement  
801 K Street, Suite 2300, Sacramento, CA 95814

**Discharger:**

Mr. Jett McCormick  
LBA Realty Fund III Company VIII, LLC  
3347 Michelson Drive, Suite 200  
Irvine, CA 92612  
[jmccormick@lbarealty.com](mailto:jmccormick@lbarealty.com)

### **Ex Parte Communications**

Designated Parties and Interested Persons are forbidden from engaging in *ex parte* communications regarding this matter. An *ex parte* communication is a written or verbal communication related to the investigation, preparation, or prosecution of the Complaint between a Designated Party or an Interested Person and a Board Member or a member of the Board's Advisory Team (see Gov. Code, § 11430.10 *et seq.*). However, if the communication is copied to all other persons (if written) or is made in a manner open to all other persons (if verbal), then the communication is not considered an *ex parte* communication. Communications regarding non-controversial procedural matters are also not considered *ex parte* communications and are not restricted.

### **Hearing Time Limits**

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each Designated Party shall have a combined 20 minutes to present evidence (including evidence presented by witnesses called by the Designated Party), to cross-examine witnesses (if warranted), and to provide a closing statement. Each Interested Person shall have 3 minutes to present a non-evidentiary policy statement.

Participants with similar interests or comments are requested to make joint presentations and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than the deadline listed under "Important Deadlines" below.

Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Board Chair (at the hearing) upon a showing that additional time is necessary. Such showing shall explain what testimony, comments, or legal argument requires extra time, and why it could not have been provided in writing by the applicable deadline.

A timer will be used, but will not run during Board questions or the responses to such questions, or during discussions of procedural issues.

### **Submission of Evidence and Policy Statements**

The Prosecution Team and all other Designated Parties (including LBA Realty Fund III Company VIII, LLC) must submit the following information in advance of the hearing:

1. All documentary evidence and exhibits to be offered at the hearing.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, who the Designated Party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony. Alternatively, the testimony of any witness may

be presented by declaration, so long as that witness will be available for cross-examination at the hearing.

4. The qualifications of each expert witness, if any.

Prosecution Team: The Prosecution Team's information must include the legal and factual basis for its claims against LBA Realty Fund III Company VIII, LLC; a list of all evidence on which the Prosecution Team relies, which must include, at a minimum, all documents cited in the Complaint, Staff Report, or other material submitted by the Prosecution Team; and the witness information required under items 3-4 for all witnesses, including Board staff.

Designated Parties (including LBA Realty Fund III Company VIII, LLC): All Designated Parties shall submit comments regarding the Complaint along with any additional supporting evidence not cited by the Regional Board's Prosecution Team no later than the deadline listed under "Important Deadlines" below.

Rebuttal: Any Designated Party that would like to submit evidence, legal analysis, or policy statements to rebut information previously submitted by other Designated Parties shall submit this rebuttal information so that it is received no later than the deadline listed under "Important Deadlines" below. "Rebuttal" means evidence, analysis or comments offered to disprove or contradict other submissions. Rebuttal shall be limited to the scope of the materials previously submitted. Rebuttal information that is not responsive to information previously submitted may be excluded.

Copies: For each evidentiary deadline, each Designated Party shall send one electronic copy of the above materials to each of the other Designated Parties at the address or addresses provided above by 5:00 p.m. on the deadline described above.

Interested Persons: Interested Persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but they must be received by the deadline listed under "Important Deadlines" to be included in the Regional Board's agenda package. Interested Persons do not need to submit written comments in order to speak at the hearing.

Prohibition on Surprise Evidence: In accordance with California Code of Regulations, title 23, section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Board Chair may exclude evidence and testimony that is not submitted in accordance with this Hearing Procedure. Excluded evidence and testimony will *not* be considered by the Regional Board and will not be included in the administrative record for this proceeding.

Presentations: Power Point and other visual presentations may be used at the hearing, but their content shall not exceed the scope of other submitted written material. These presentations must be provided to the Advisory Team at or before the hearing both in hard copy and in electronic format so that they may be included in the administrative record.

Witnesses: All witnesses who have submitted written testimony shall appear at the hearing to affirm that the testimony is true and correct, and shall be available for cross-examination.

**Questions**

Questions concerning this proceeding may be addressed to the Advisory Team attorney (contact information above).

**IMPORTANT DEADLINES**

*All required submissions must be received by 5:00 p.m. on the respective due date.*

May 1, 2018	<ul style="list-style-type: none"> <li>Prosecution Team Issues Complaint and Hearing Procedure to LBA Realty Fund III Company VIII, LLC.</li> </ul>
May 3, 2018	<ul style="list-style-type: none"> <li>LBA Realty Fund III Company VIII, LLC deadline to request a pre-hearing meeting.</li> </ul>
May 31, 2018	<ul style="list-style-type: none"> <li>LBA Realty Fund III Company VIII, LLC deadline to submit 90-Day Hearing Waiver Form and payment.</li> <li>LBA Realty Fund III Company VIII, LLC deadline to submit the 2016-17 Annual Report in SMARTS <a href="https://smarts.waterboards.ca.gov">https://smarts.waterboards.ca.gov</a>.</li> <li>Objections due on Proposed Hearing Procedure.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, all known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney, Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
June 8, 2018*	<ul style="list-style-type: none"> <li>Prosecution Team's deadline for submission of information required under "Submission of Evidence and Policy Statements," above.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, all known Interested Persons, Advisory Team Primary Contact, Advisory Team Attorney</p>
June 11, 2018*	<ul style="list-style-type: none"> <li>Deadline to request "Designated Party" status.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, all known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney, Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
June 15, 2018*	<ul style="list-style-type: none"> <li>Deadline to submit opposition to requests for Designated Party status.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, all known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney, Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
June 22, 2018*	<ul style="list-style-type: none"> <li>Advisory Team issues decision on Hearing Procedure Objections.</li> <li>Advisory Team issues decision on requests for Designated Party status.</li> </ul>
July 2, 2018*	<ul style="list-style-type: none"> <li>Designated Parties' (including LBA Realty Fund III Company VIII, LLC) deadline to submit all information required under "Submission of Evidence and Policy Statements" above. This includes all written comments regarding the complaint and any rebuttal evidence, any rebuttal to legal arguments and/or policy statements, and all evidentiary objections.</li> <li>Interested Persons' comments are due.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, all known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney, Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
July 11, 2018*	<ul style="list-style-type: none"> <li>Prosecution Team's deadline to submit any rebuttal evidence, any rebuttal to legal arguments, policy statements, and all evidentiary objections.</li> </ul>

	<ul style="list-style-type: none"> <li>• Deadline to submit requests for additional time.</li> <li>• If rebuttal evidence is submitted, all requests for additional time (to respond to the rebuttal at the hearing) must be made within 3 working days of <i>this</i> deadline.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, all known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney, Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
July 13, 2018* †	<ul style="list-style-type: none"> <li>• Advisory Team submits Hearing Information on the parties and Board.</li> </ul> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Advisory Team Primary Contact, Advisory Team Attorney</p>
July 27, 2018*	Hearing

\* LBA Realty Fund III Company VIII, LLC has the right to a hearing before the Board within 90 days of receiving the Complaint, but this right can be waived (to facilitate settlement discussions, for example). By submitting the waiver form, LBA Realty Fund III Company VIII, LLC is not waiving the right to a hearing; unless a settlement is reached, the Board will hold a hearing prior to imposing civil liability. However, if the Board accepts the waiver, all deadlines marked with an "\*" will be revised if a settlement cannot be reached.

† This deadline is set based on the date that the Board Members' agenda packages are compiled. Any material received after this deadline will not be included in the Board Members' agenda packages.

**Santa Ana Regional Water Quality Control Board**

**WAIVER FORM FOR MANDATORY MINIMUM PENALTY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent LBA Realty Fund III Company VIII, LLC in connection with Mandatory Minimum Penalty Complaint No. R8-2018-0078 (Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served with the complaint. The person(s) who have been issued a complaint may waive the right to a hearing."

**(Check here if LBA Realty Fund III Company VIII, LLC waives the hearing requirement and will pay the liability in full.)**

- a. I hereby waive any right LBA Realty Fund III Company VIII, LLC may have to a hearing before the Regional Water Board.
- b. I certify that LBA Realty Fund III Company VIII, LLC will remit payment for the proposed penalty in the full amount of two thousand, five hundred seventy-two dollars (\$2,572) by submitting a check made payable to the "State Water Resources Control Board Waste Discharge Permit Fund," that references "Complaint No. R8-2018-0078." Payment must be received by the Regional Water Board by **May 31, 2018** or the Regional Water Board may adopt an Order requiring payment.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Water Board receive significant new information or comments from any source (excluding the Water Board's Prosecution Team) during this comment period, the Regional Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Regional Water Board (or the Regional Board's delegate), and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in LBA Realty Fund III Company VIII, LLC having waived the right to contest the allegations in the Complaint and the imposition of civil liability.

- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

# **Attachment 1**



EDMUND G. BROWN JR.  
GOVERNOR



MATTHEW ROGOVIN  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

---

**Santa Ana Regional Water Quality Control Board**

September 12, 2017

Josip Vukic  
LBA Realty Fund III Company VIII, LLC.  
One Embarcadero Center, Suite 710  
San Francisco, CA 94111

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**NOTICE OF NON-COMPLIANCE: FAILURE TO COMPLY WITH THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES, ORDER NO. 2009-0009-DWQ, NPDES NO. CAS000002 (GENERAL PERMIT) WDID NO. 8 33C378515**

Dear Mr. Vukic:

Your construction site identified as 797 And 799 Palmyrita Ave, located at 797 And 799 Palmyrita Ave, in the city of Irvine is regulated under the General Permit and is identified by WDID 8 33C378515. Section XVI.A. of the General Permit requires that an Annual Report be submitted by September 1st each year via the online SMARTS database. Our records show that your annual report for the July 1, 2016 to June 30, 2017 reporting period has not been submitted.

LBA Realty Fund III Company VIII, LLC. is consequently in violation of Section XVI.A. of the General Permit for failure to submit a complete 2016-2017 Annual Report. We request that you submit a complete **2016-2017 Annual Report** via the online SMARTS database no later than **October 13, 2017**.

**The online SMARTS database is available at:**

<https://smarts.waterboards.ca.gov>

Please note that in order to submit the annual report, the Legally Responsible Person (LRP) or the legal owner of the property must complete the e-Authorization Form if the e-Authorization Form was not processed in the prior years. This form can be accessed, once logged into SMARTS, under the main menu. Click on the "Update User Profile" link on the left. The LRP must complete the form shown, sign it, and mail the original form to one of the Sacramento addresses noted at the end of the e-Authorization Form. You will be notified when the e-Authorization Form has been processed, enabling you to submit the report electronically.

You must also provide a statement explaining why the annual report was not submitted by the September 1 deadline, propose the measures you will take to ensure timely

---

WILLIAM RUIH, CHAIR | HOPE A. SMYTHE, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | [www.waterboards.ca.gov/santana](http://www.waterboards.ca.gov/santana)

♻️ RECYCLED PAPER

submittals in the future, and upload the statement as part of SMARTS annual report Attachments.

Failure to submit the requested information within 30 days of the date of this letter will result in further enforcement action, which may include civil monetary penalties of up to \$10,000 for each day of violation. Please note that Section 13399.33 of the California Water Code stipulates a mandatory minimum penalty of \$1,000 to those permittees that do not submit their annual reports after notification.

Should you need assistance in completing the Annual Report or have any questions relating to SMARTS, please contact the SMARTS Helpdesk at [stormwater@waterboards.ca.gov](mailto:stormwater@waterboards.ca.gov). You may also contact Keith Elliott at 951-782-4925 or [keith.elliott@waterboards.ca.gov](mailto:keith.elliott@waterboards.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Ann Sturdivant". The signature is written in a cursive style with a large initial "A".

Ann Sturdivant, PG, CEG, CHG  
Supervising Engineering Geologist  
Chief, Groundwater and Regulatory Division

**Certified Mail service provides the following benefits:**

- A receipt (this portion of the Certified Mail label).
- A unique identifier for your mailpiece.
- Electronic verification of delivery or attempted delivery.
- A record of delivery (including the recipient's signature) that is retained by the Postal Service™ for a specified period.

**Important Reminders:**

- You may purchase Certified Mail service with First-Class Mail™, First-Class Package Service™, or Priority Mail™ service.
- Certified Mail service is not available for international mail.
- Insurance coverage is not available for purchases with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
- For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:
  - Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, Domestic Return Receipt; attach PS Form 3811 to your mailpiece;

for an electronic return receipt, see a retail associate for assistance. To receive a duplicate return receipt for no additional fee, present this USPS®-postmarked Certified Mail receipt to the retail associate.

- Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.
- Adult signature service, which requires the signer to be at least 21 years of age (not available at retail).
- Adult signature restricted delivery service, which requires the signer to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).

To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

**IMPORTANT: Save this receipt for your records.**

PS Form 3800, April 2016 (Revised) PSN 7530-02-000-0007

7016 2070 0000 6805 3058

<b>U.S. Postal Service™</b>	
<b>CERTIFIED MAIL® RECEIPT</b>	
<i>Domestic Mail Only</i>	
For delivery information, visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
Certified Mail Fee	\$3.30
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$2.70
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	
\$	\$4.7
Total Postage and Fees	\$6.47
Sent To	
Mr. Josip Vukic	
Street and Apt. No., or PO Box No.	
LBA Realty Fund III Company VIII, LLC.	
City, State, ZIP+4	
One Embarcadero Center, Suite 710	
PS Form 3800, April 2016 (Revised) PSN 7530-02-000-0007 See Reverse for Instructions	

9/12/2017  
Postmark Here  
1st NNC  
8 33C378515  
481038

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 Mr. Josip Vukic  
 LBA Realty Fund III Company VIII,  
 LLC.  
 One Embarcadero Center, Suite 710  
 San Francisco, CA 94111  
 WDID: 833C378515 AppID: 481038



9590 9403 0887 5223 0738 39

2. Article Number (Transfer from service label)

7016 2070 0000 6805 3058

PS Form 3811, July 2015 PSN 7530-02-000-8053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type
- Adult Signature
  - Adult Signature Restricted Delivery
  - Certified Mail®
  - Certified Mail Restricted Delivery
  - Collect on Delivery
  - Collect on Delivery Restricted Delivery
  - Priority Mail Express®
  - Registered Mail™
  - Registered Mail Restricted Delivery
  - Return Receipt for Merchandise
  - Signature Confirmation™
  - Signature Confirmation Restricted Delivery

Domestic Return Receipt

USPS TRACKING#



9590 9403 0887 5223 0738 39

First-Class Mail  
 Postage & Fees Paid  
 USPS  
 Permit No. G-10

United States  
 Postal Service



\* Sender: Please print your name, address, and ZIP+4\* in this box\*

SANTA ANA REGIONAL  
 WATER QUALITY CONTROL BOARD  
 3737 MAIN STREET, SUITE 500  
 RIVERSIDE, CA 92501-3348

ATTN: INLAND STORM WATER  
 2016-2017 Construction General Permit  
 1st NNC (KLE)

# **Attachment 2**



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

**Santa Ana Regional Water Quality Control Board**

October 18, 2017

Mr. Josip Vukic  
LBA Realty Fund III Company VIII, LLC.  
One Embarcadero Center, Suite 710  
San Francisco, CA 94111

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**FINAL NOTICE OF NON-COMPLIANCE - GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES, ORDER NO. 2009-0009-DWQ, NPDES NO. CAS000002**

Dear Mr. Vukic:

The construction site identified as 797 And 799 Palmyrita Avenue, located at 797 and 799 Palmyrita Avenue, in the city of Irvine is regulated under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (General Permit) and is identified by **8 33C378515**.

Section XVI.A. of the General Permit requires that an Annual Report be submitted by September 1st each year via the online SMARTS database. Our records show that your annual report for the July 1, 2016 to June 30, 2017 reporting period has not been submitted.

LBA Realty Fund III Company VIII, LLC. is consequently in violation of Section XVI.A. of the General Permit for failure to submit a complete **2016-2017 Annual Report**. We request that you submit a complete 2016-2017 Annual Report via the online SMARTS database no later than **November 13, 2017**.

The online SMARTS database is available at <https://smarts.waterboards.ca.gov>.

Please note that in order to submit the annual report, the Legally Responsible Person (LRP) or the legal owner of the property must complete the e-Authorization Form if the e-Authorization Form was not processed in the prior years. This form can be accessed, once logged into SMARTS, under the main menu. Click on the "Update User Profile" link on the left. The LRP must complete the form shown, sign it, and mail the original form to one of the Sacramento addresses noted at the end of the e-Authorization Form. You will be notified when the e-Authorization Form has been processed, enabling you to submit the report electronically.

You must also provide a statement explaining why the annual report was not submitted by the September 1 deadline, describe the measures you will take to ensure timely

WILLIAM RUIH, CHAIR | HOPE A. SMYTH, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | [www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana)

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Mr. Josip Vukic  
LBA Realty Fund III Company VIII, LLC.

- 2 -

October 18, 2017

submittals in the future, and upload the statement as part of SMARTS annual report Attachments.

Failure to submit the requested information by **November 13, 2017**, will result in further enforcement action, which may include civil monetary penalties of up to \$10,000 for each day of violation. Please note that Section 13399.33 of the California Water Code stipulates a mandatory minimum penalty of \$1,000 to those permittees who do not submit their annual reports after notification.

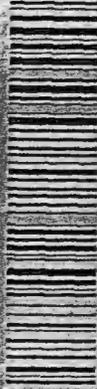
Should you need assistance in completing the Annual Report or have any questions relating to SMARTS, please contact the SMARTS Helpdesk at [stormwater@waterboards.ca.gov](mailto:stormwater@waterboards.ca.gov). You may also contact Keith Elliott at 951-782-4925 or [keith.elliott@waterboards.ca.gov](mailto:keith.elliott@waterboards.ca.gov).

Sincerely,

Original Signed by:

Lauma Willis  
Environmental Program Manager  
Chief, Planning Division  
Santa Ana Regional Water Quality Control Board

USPS TRACKING #



9590 9402 2001 6123 9354 35

First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

United States  
Postal Service



Received  
OCT 2017

CRWDCB  
Santa Ana Region 8

• Sender: Please print your name, address, and ZIP+4® in this box •

SANTA ANA REGIONAL  
WATER QUALITY CONTROL BOARD  
3737 MAIN STREET, SUITE 500  
RIVERSIDE, CA 92501-3348

ATTN: INLAND STORM WATER  
2016-2017 Construction General Permit

2nd\_NNG (KLE)



**SENDER: COMPLETE THIS SECTION**

- Complete Items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

**Mr. Josip Vukic**  
**LBA Realty Fund III Company VIII,**  
**LLC.**  
**One Embarcadero Center, Suite 710**  
**San Francisco, CA 94111**  
**WDID: 8 33C378515 AppID: 481038**



9590 9402 2001 6123 9354 35

## 2. Article Number (Transfer from service label)

7026 12070 0000 16805 4628

**COMPLETE THIS SECTION ON DELIVERY**

## A. Signature

X

 Agent Addressee

## B. Received by (Printed Name)

P. Mahencic

## C. Date of Delivery

 D. Is delivery address different from Item 1?  Yes  
 If YES, enter delivery address below:  No

## 3. Service Type

- |  |   |
|--|---|
| <input type="checkbox"/> Adult Signature                             | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature Restricted Delivery         | <input type="checkbox"/> Registered Mail™                           |
| <input checked="" type="checkbox"/> Certified Mail®                  | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery          | <input checked="" type="checkbox"/> Return Receipt for Merchandise  |
| <input type="checkbox"/> Collect on Delivery                         | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery     | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Registered Mail Restricted Delivery (\$500) |   |

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

# **Attachment 3**



EDMUND G. BROWN JR.  
GOVERNOR



MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

---

**Santa Ana Regional Water Quality Control Board**

March 6, 2018

Ms. Vivian Imperial  
CT Corporation System  
818 W Seventh Street, Suite 930  
Los Angeles, California 90017  
(Certified Mail)

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Jett McCormick  
jmccormick@lbarealty.com  
(By Email Only)

Mr. Jett McCormick  
LBA Realty Fund III Company VIII LLC  
One Embarcadero Center Ste 710  
San Francisco CA, California  
jmccormick@lbarealty.com  
(Regular Mail and Email)

**SETTLEMENT OFFER NO. R8-2018-0040: EXPEDITED PAYMENT PROGRAM FOR VIOLATION OF WATER CODE SECTION 13399.33(C). WDID NO. 8 33C378515**

Dear Mr. McCormick,

This letter is to notify LBA Realty Fund III Company VIII LLC (hereinafter "Permittee or "you") of alleged violations of the California Water Code (Water Code). The violation is a failure to submit the 2016-17 Annual Report by September 1, 2017 for the 797 and 799 Palmyrita Avenue construction site located at 797 and 799 Palmyrita Avenue in the City of Riverside (Site).

This is an invitation to participate in the Santa Ana Regional Water Quality Control Board's (Regional Board) Expedited Payment Program to address mandatory minimum penalties that must be assessed pursuant to California Water Code sections 13385 and 13385.1.

**ALLEGED VIOLATION:**

Regional Board staff alleges that the Permittee has violated provisions of the National Pollutant Discharge Elimination System (NPDES) Statewide General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ as amended by 2010-0014-DWQ and 2012-0006-DWQ (Order).

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WILLIAM RUIH, CHAIR | HOPE A. SMYTHE, EXECUTIVE OFFICER

3737 Main St. Suite 500 Riverside CA 92501 | www.waterboards.ca.gov/santaana

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Provision I.4.c. of the Order requires that the Permittee submit an Annual Report, due to the Regional Board by **September 1 of each year**.

Regional Board staff requested that the Permittee submit the 2016-17 Annual Report in the Notices of Noncompliance (NNC) issued on September 12, 2017 and October 18, 2017. Based on information in the Storm Water Multiple Application & Report Tracking System (SMARTS), as of March 1, 2018, the Annual Report has not been submitted to date.

Pursuant to Water Code section 13399.33(c), the Permittee is subject to a minimum penalty of not less than one thousand dollars (\$1,000) plus staff costs for failing to submit the Annual Report within sixty (60) days after the first NNC was sent. The Permittee is also subject to discretionary administrative civil liabilities of up to ten thousand dollars (\$10,000) for each day in which the violation occurs. These minimum and discretionary administrative civil liabilities may be assessed by the Regional Board beginning with the date that the violations first occurred. The formal enforcement action that the Regional Board uses to assess such liability is an administrative civil liability complaint. The Regional Board may instead refer such matters to the Attorney General's Office for prosecution. If referred to the Attorney General for prosecution, the Superior Court may assess up to twenty-five thousand dollars (\$25,000) per violation.

#### **PERMITTEE'S OPTIONS FOR RESPONSE TO OFFER:**

You have two options to respond as outlined below.

1. **Accept the Expedited Payment Program offer.** If the permittee chooses to accept this offer, they must agree to pay a settlement of **\$1,890.00**. This settlement offer is based on Water Code section 13399.33(c) which requires \$1,000 per missing report plus staff costs. Staff costs in this matter are \$890.00.

This is a Conditional Offer subject to certain terms and conditions set forth below. If you choose this option, **you must sign and submit the enclosed Acceptance and Waiver form by April 6, 2018**. The form provides submittal instructions. Final closure on this action is only possible after ultimate submission of the settlement amount.

Please submit the outstanding Annual Report in SMARTS and an original signed (blue ink) Acceptance and Wavier form to:

Keith Elliott, Inland Stormwater Unit  
Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501-3348

In response to the Conditional Offer and payment in settlement of this enforcement action, the Regional Board will forego issuance of a formal administrative complaint, will not refer the violation to the Attorney General, and will waive its right to seek additional discretionary civil liabilities for the violations identified in the NNCs.

2. **Contest the violation.** To contest the violation, the Permittee must submit in writing the basis of your challenge with supporting evidence. For example, you may have evidence that you previously submitted your Annual Report(s) prior to September 1, 2017 or you are no longer in business. If you choose this option, you must **submit your written documentation by April 6, 2018**. We will review your submission and, if we agree, we will notify you in writing that you are no longer considered in violation of the permit and that our enforcement action has been withdrawn. All responses should be directed to Keith Elliott at the address listed in the above paragraph.

If you do not respond in a manner described in the above options, Regional Board staff will prepare an administrative civil liability complaint for the violations cited in the NNC. The liability amount sought in the administrative civil liability complaint and/or imposed by the Regional Board may be higher than the liability amount set forth in this Conditional Offer. Moreover, additional staff costs may be considered in the recommended liability amount in an administrative civil liability complaint.

#### **CONDITIONS FOR REGIONAL BOARD ACCEPTANCE OF RESOLUTION:**

This offer to participate in the Expedited Payment Program is conditional upon the Regional Board's receipt of confirmation that the Permittee has submitted the 2016-17 Annual Report in SMARTS on or before **April 6, 2018**. If you choose not to or fail to submit the Annual Reports on or before that date, this offer will be deemed withdrawn and a formal enforcement action will be pursued.

Federal regulations require the Regional Board to publish notice of, and to provide at least thirty (30) days for public comment on, any settlement of an enforcement action addressing NPDES permit violations (40 C.F.R. section 123.27(d)(2)(iii)).

If you accept the Expedited Payment Program offer, the settlement will be published in the following manner:

1. Upon receipt of the Permittee's Acceptance and Waiver, the Annual Report, and other requested technical reports on or before **April 6, 2018**, Regional Board staff will publish a notice of the proposed resolution of the alleged violations.
2. If Regional Board staff receives no comments within the notice period, the Regional Board Executive Officer will execute the Acceptance and Waiver as a stipulated order assessing the uncontested penalty amount pursuant to Water Code section 13399.33. You will then be notified that payment is due within 30 days. Failure to pay the penalty

March 6, 2018

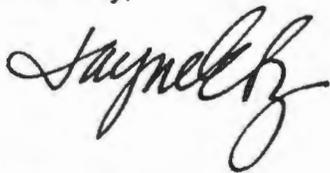
within that time frame may result in further liability, referral of the matter to the Attorney General, and/or may void the offer to participate in this Expedited Payment Program.

3. If Regional Board staff receives significant comments in opposition to the settlement, this offer may be withdrawn. In that case, the Permittee's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn. In that case, the violations will be addressed through a formal enforcement action.

This Expedited Payment Program offer does not address or resolve liability for any violation that is not specifically identified in the attached NNC. The Regional Board reserves the right to pursue formal enforcement of any violations not specifically cited in the attached NNCs.

Should you have any questions about this Expedited Payment Program or Notice of Noncompliance, please contact Keith Elliott at (951) 782-4925 or at [keith.elliott@waterboards.ca.gov](mailto:keith.elliott@waterboards.ca.gov) regarding this matter.

Sincerely,



Jayne Joy  
Assistant Executive Officer

Enclosures:

Notice of Noncompliance dated September 12, 2017  
Notice of Noncompliance dated October 18, 2017  
Acceptance of Conditional Resolution and Waiver of Right to Hearing

cc: (via email)

Catherine Hawe, Office of Enforcement, State Water Resources Control Board

# 1<sup>st</sup> Notice of Noncompliance



**Santa Ana Regional Water Quality Control Board**

September 12, 2017

Josip Vukic  
LBA Realty Fund III Company VIII, LLC.  
One Embarcadero Center, Suite 710  
San Francisco, CA 94111

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**NOTICE OF NON-COMPLIANCE: FAILURE TO COMPLY WITH THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES, ORDER NO. 2009-0009-DWQ, NPDES NO. CAS000002 (GENERAL PERMIT) WDID NO. 8 33C378515**

Dear Mr. Vukic:

Your construction site identified as 797 And 799 Palmyrita Ave, located at 797 And 799 Palmyrita Ave, in the city of Irvine is regulated under the General Permit and is identified by WDID 8 33C378515. Section XVI.A. of the General Permit requires that an Annual Report be submitted by September 1st each year via the online SMARTS database. Our records show that your annual report for the July 1, 2016 to June 30, 2017 reporting period has not been submitted.

LBA Realty Fund III Company VIII, LLC. is consequently in violation of Section XVI.A. of the General Permit for failure to submit a complete 2016-2017 Annual Report. We request that you submit a complete **2016-2017 Annual Report** via the online SMARTS database no later than **October 13, 2017**.

**The online SMARTS database is available at:**

<https://smarts.waterboards.ca.gov>

Please note that in order to submit the annual report, the Legally Responsible Person (LRP) or the legal owner of the property must complete the e-Authorization Form if the e-Authorization Form was not processed in the prior years. This form can be accessed, once logged into SMARTS, under the main menu. Click on the "Update User Profile" link on the left. The LRP must complete the form shown, sign it, and mail the original form to one of the Sacramento addresses noted at the end of the e-Authorization Form. You will be notified when the e-Authorization Form has been processed, enabling you to submit the report electronically.

You must also provide a statement explaining why the annual report was not submitted by the September 1 deadline, propose the measures you will take to ensure timely

WILLIAM RUIH, CHAIR | HOPE A. SMYTHE, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92503 | [www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana)

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September 12, 2017

submittals in the future, and upload the statement as part of SMARTS annual report Attachments.

Failure to submit the requested information within 30 days of the date of this letter will result in further enforcement action, which may include civil monetary penalties of up to \$10,000 for each day of violation. Please note that Section 13399.33 of the California Water Code stipulates a mandatory minimum penalty of \$1,000 to those permittees that do not submit their annual reports after notification.

Should you need assistance in completing the Annual Report or have any questions relating to SMARTS, please contact the SMARTS Helpdesk at [stormwater@waterboards.ca.gov](mailto:stormwater@waterboards.ca.gov). You may also contact Keith Elliott at 951-782-4925 or [keith.elliott@waterboards.ca.gov](mailto:keith.elliott@waterboards.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Ann Sturdivant". The signature is written in a cursive style with a large initial "A".

Ann Sturdivant, PG, CEG, CHG  
Supervising Engineering Geologist  
Chief, Groundwater and Regulatory Division

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<input type="checkbox"/> Return Receipt (hardcopy)	\$2.70
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

9/12/2017

Postmark  
Here

1st NNC

Postage	\$
Total Postage and Fees	\$6.47

8 33C378515

481038

Sent To

Mr. Josip Vukic  
Street and Apt. No., or PO Box No.  
LBA Realty Fund III Company VIII, LLC.  
City, State, ZIP+4®  
One Embarcadero Center, Suite 710

PS Form 3836, April 2013 PSN 7530-02-000-9000 See Reverse for Instructions

**Certified Mail service provides the following benefits:**

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- Electronic verification of delivery or attempted delivery.
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**Important Reminders:**

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- Insurance coverage is not available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
- For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:
  - Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, *Domestic Return Receipt*; attach PS Form 3811 to your mailpiece;

for an electronic return receipt, use a retail associate for assistance. To receive a duplicate return receipt for no additional fee, present this USPS®-postmarked Certified Mail receipt to the retail associate.

- Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.
- Adult signature service, which requires the signer to be at least 21 years of age (not available at retail).
- Adult signature restricted delivery service, which requires the signer to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).
- To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

**IMPORTANT: Save this receipt for your records.**

**SENDER: COMPLETE THIS SECTION**

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
**Mr. Josip Vukic**  
**LBA Realty Fund III Company VIII,**  
**LLC.**  
**One Embarcadero Center, Suite 710**  
**San Francisco, CA 94111**  
**WDID: 8 33C378515 AppID: 481038**



9590 9403 0887 5223 0738 39

2. Article Number (Transfer from service label)

7016 2070 0000 6805 3058

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee  
 B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type
- Adult Signature
  - Adult Signature Restricted Delivery
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  - Certified Mail Restricted Delivery
  - Collect on Delivery
  - Collect on Delivery Restricted Delivery
  - Priority Mail Express®
  - Registered Mail™
  - Registered Mail Restricted Delivery
  - Return Receipt for Merchandise
  - Signature Confirmation™
  - Signature Confirmation Restricted Delivery

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9590 9403 0887 5223 0738 39



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SANTA ANA REGIONAL  
WATER QUALITY CONTROL BOARD  
3737 MAIN STREET, SUITE 500  
RIVERSIDE, CA 92501-3348



ATTN: INLAND STORM WATER  
2016-2017 Construction General Permit  
1st NNC (KLE)

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
**Mr. Josip Vukic**  
**LBA Realty Fund III Company VIII,**  
**LLC.**  
**One Embarcadero Center, Suite 710**  
**San Francisco, CA 94111**  
**WDID: 8 33C378515 AppID: 481038**



9590 9402 2001 6123 9354 35

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**7016 2070 0000 6805 4628**

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X   Agent  
 Addressee

B. Received by (Printed Name)  C. Date of Delivery  
 P. Mehencic

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type
- Adult Signature
  - Adult Signature Restricted Delivery
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  - Certified Mail Restricted Delivery
  - Collect on Delivery
  - Collect on Delivery Restricted Delivery
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  - Return Receipt for Merchandise
  - Signature Confirmation™
  - Signature Confirmation Restricted Delivery
  - Priority Mail Express®

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Postage & Fees Paid  
USPS  
Permit No. G-10

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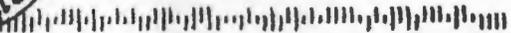
United States  
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box •

SANTA ANA REGIONAL  
WATER QUALITY CONTROL BOARD  
3737 MAIN STREET, SUITE 500  
RIVERSIDE, CA 92501-3348

ATTN: INLAND STORM WATER  
2016-2017 Construction General Permit

2nd\_NNC (KLE)



**2nd Notice of  
Noncompliance**



**Santa Ana Regional Water Quality Control Board**

October 18, 2017

Mr. Josip Vukic  
LBA Realty Fund III Company VIII, LLC.  
One Embarcadero Center, Suite 710  
San Francisco, CA 94111

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**FINAL NOTICE OF NON-COMPLIANCE - GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES, ORDER NO. 2009-0009-DWQ, NPDES NO. CAS000002**

Dear Mr. Vukic:

The construction site identified as 797 And 799 Palmyrita Avenue, located at 797 and 799 Palmyrita Avenue, in the city of Irvine is regulated under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (General Permit) and is identified by **8 33C378515**.

Section XVI.A. of the General Permit requires that an Annual Report be submitted by September 1st each year via the online SMARTS database. Our records show that your annual report for the July 1, 2016 to June 30, 2017 reporting period has not been submitted.

LBA Realty Fund III Company VIII, LLC. is consequently in violation of Section XVI.A. of the General Permit for failure to submit a complete **2016-2017 Annual Report**. We request that you submit a complete 2016-2017 Annual Report via the online SMARTS database no later than **November 13, 2017**.

The online SMARTS database is available at <https://smarts.waterboards.ca.gov>.

Please note that in order to submit the annual report, the Legally Responsible Person (LRP) or the legal owner of the property must complete the e-Authorization Form if the e-Authorization Form was not processed in the prior years. This form can be accessed, once logged into SMARTS, under the main menu. Click on the "Update User Profile" link on the left. The LRP must complete the form shown, sign it, and mail the original form to one of the Sacramento addresses noted at the end of the e-Authorization Form. You will be notified when the e-Authorization Form has been processed, enabling you to submit the report electronically.

You must also provide a statement explaining why the annual report was not submitted by the September 1 deadline, describe the measures you will take to ensure timely

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Mr. Josip Vukic  
LBA Realty Fund III Company VIII, LLC.

- 2 -

October 18, 2017

submittals in the future, and upload the statement as part of SMARTS annual report Attachments.

Failure to submit the requested information by **November 13, 2017**, will result in further enforcement action, which may include civil monetary penalties of up to \$10,000 for each day of violation. Please note that Section 13399.33 of the California Water Code stipulates a mandatory minimum penalty of \$1,000 to those permittees who do not submit their annual reports after notification.

Should you need assistance in completing the Annual Report or have any questions relating to SMARTS, please contact the SMARTS Helpdesk at [stormwater@waterboards.ca.gov](mailto:stormwater@waterboards.ca.gov). You may also contact Keith Elliott at 951-782-4925 or [keith.elliott@waterboards.ca.gov](mailto:keith.elliott@waterboards.ca.gov).

Sincerely,

Original Signed by:

Lauma Willis  
Environmental Program Manager  
Chief, Planning Division  
Santa Ana Regional Water Quality Control Board

USPS TRACKING #



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First-Class Mail  
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Permit No. G-10

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Received  
OCT 2017



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SANTA ANA REGIONAL  
WATER QUALITY CONTROL BOARD  
3737 MAIN STREET, SUITE 500  
RIVERSIDE, CA 92501-3348  
ATTN: INLAND STORM WATER  
2016-2017 Construction General Permit

2nd\_NNC (KLE)



**SENDER: COMPLETE THIS SECTION**

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**Mr. Josip Vukic**  
**LBA Realty Fund III Company VIII,**  
**LLC.**  
**One Embarcadero Center, Suite 710**  
**San Francisco, CA 94111**  
**WDID: 8 33C378515 AppID: 481038**



9590 9402 2001 6123 9354 35

2. Article Number (Transfer from service label)

7016 2070 0000 6805 4628

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

P. Mahoney

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Registered Mail

Registered Mail Restricted Delivery

Registered Mail Restricted Delivery (\$500)

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Return Receipt for Merchandise

Signature Confirmation™

Signature Confirmation Restricted Delivery

**Elliott, Keith@Waterboards**

---

**From:** Elliott, Keith@Waterboards  
**Sent:** Monday, October 23, 2017 8:32 AM  
**To:** 'jvukic@lbarealty.com'; 'LGuerrero@waremalcomb.com'  
**Subject:** WDID 8 33C378515 2nd NNC for 2016-2017 CGP Annual Report  
**Attachments:** C378515\_2016-2017\_2ndNNC\_CertMail to Owner.pdf

Dear Mr. Vukic,

You have been designated to receive a copy of the attached document.

Program Type: Construction Permit WDID Number: 8 33C378515 SMARTS AppID: 481038  
Site's Name: 797 And 799 Palmyrita Avenue  
Site's Registered Location: 797 And 799 Palmyrita Avenue, Irvine  
Site's Designated Legally Responsible Person Contact: Josip Vukic (jvukic@lbarealty.com)  
Site's Designated Operator Contact: Josip Vukic (jvukic@lbarealty.com)  
Site's Designated Contact: Lilia Guerrero (LGuerrero@waremalcomb.com)  
Site's Designated Developer Contact: Lilia Guerrero (LGuerrero@waremalcomb.com)

In an effort to improve efficiency the Santa Ana Regional Water Quality Control Board no longer mails paper copies to those designated to receive copies (cc's) of letters and other documents; these are transmitted through email only.

All large attachments and other documents (such as tentative and adopted orders), will be posted on our website and not attached to this e-mail notification. To access these documents, please see our website at: <http://www.waterboards.ca.gov/santaana>

Document(s) can be viewed using Adobe Acrobat Reader. The free reader can be downloaded from [www.adobe.com](http://www.adobe.com) or from our web site.

If you have any questions or have received this email in error, please contact the SMARTS Helpdesk at [stormwater@waterboards.ca.gov](mailto:stormwater@waterboards.ca.gov), reply to this email, or call me at the phone number below.

Sincerely,

Keith L. Elliott, P.E., QSD  
Water Resource Control Engineer  
Inland Storm Water Unit  
Santa Ana Regional Water Quality Control Board  
3737 Main Street, Ste. 500  
Riverside, CA 92501-3348  
951-782-4925 Voice  
951-781-6288 Fax  
[Keith.Elliott@waterboards.ca.gov](mailto:Keith.Elliott@waterboards.ca.gov)

Alex Padilla  
California Secretary of State

## Business Search - Entity Detail

The California Business Search is updated daily and reflects work processed through Wednesday, February 7, 2018. Please refer to document [Processing Times](#) for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity. Not all images are available online.

200733310046 LBA REALTY FUND III-COMPANY VIII, LLC

Registration Date:	11/29/2007
Jurisdiction:	DELAWARE
Entity Type:	FOREIGN
Status:	ACTIVE
Agent for Service of Process:	<b><u>NATIONAL REGISTERED AGENTS, INC. (C1941323)</u></b> To find the most current California registered Corporate Agent for Service of Process address and authorized employee(s) information, click the link above and then select the most current 1505 Certificate.

Entity Address:	3347 MICHELSON DR STE 200 IRVINE CA 92612
Entity Mailing Address:	3347 MICHELSON DR STE 200 IRVINE CA 92612

### LLC Management

A Statement of Information is due EVERY ODD-NUMBERED year beginning five months before and through the end of November.

Document Type	⇕ File Date	⇕ PDF
SI-NO CHANGE	10/26/2017	
SI-COMPLETE	10/19/2015	
REGISTRATION	11/29/2007	

\* Indicates the information is not contained in the California Secretary of State's database.

Note: If the agent for service of process is a corporation, the address of the agent may be requested by ordering a status report.

2/8/2018

Business Search - Business Entities - Business Programs | California Secretary of State

- For information on checking or reserving a name, refer to [Name Availability](#).
- If the image is not available online, for information on ordering a copy refer to [Information Requests](#).
- For information on ordering certificates, status reports, certified copies of documents and copies of documents not currently available in the Business Search or to request a more extensive search for records, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Frequently Asked Questions](#).

[Modify Search](#)

[New Search](#)

[Back to Search Results](#)

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**Mr. Josip Vukic**  
**LBA Realty Fund III Company VIII,**  
**LLC.**  
**One Embarcadero Center, Suite 710**  
**San Francisco, CA 94111**  
**WDID: 8 33C378515 AppID: 481038**



9590 9402 2001 6123 9354 35

2. Article Number (Transfer from service label)

7016 2070 0000 6805 4628

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

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Agent

Addressee

B. Received by (Printed Name)

P. Mahoney

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

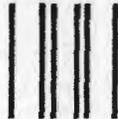
Return Receipt for Merchandise

Signature Confirmation™

Signature Confirmation Restricted Delivery

Registered Mail Restricted Delivery (\$500)

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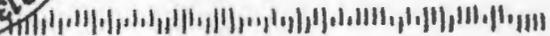
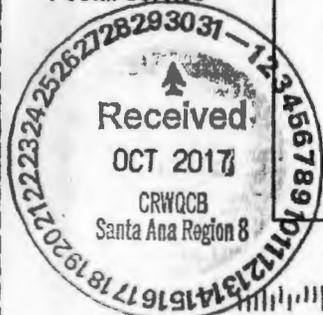
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United States  
Postal Service

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SANTA ANA REGIONAL  
WATER QUALITY CONTROL BOARD  
3737 MAIN STREET, SUITE 500  
RIVERSIDE, CA 92501-3348

ATTN: INLAND STORM WATER  
2016-2017 Construction General Permit  
2nd\_NNC (KLE)



# Waiver

## Santa Ana Regional Water Quality Control Board

### WAIVER FORM FOR MANDATORY MINIMUM PENALTY COMPLAINT

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent LBA Realty Fund III Company VIII, LLC in connection with Mandatory Minimum Penalty Complaint No. R8-2018-0078 (Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served with the complaint. The person(s) who have been issued a complaint may waive the right to a hearing."

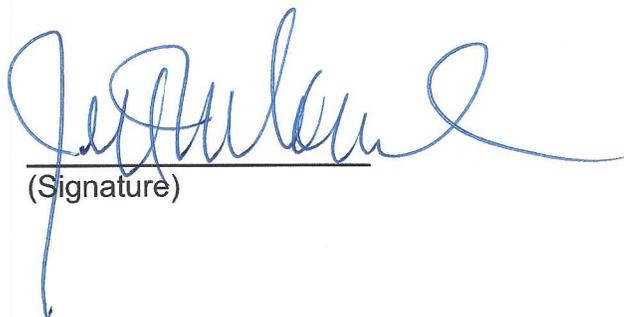
**(Check here if LBA Realty Fund III Company VIII, LLC waives the hearing requirement and will pay the liability in full.)**

- a. I hereby waive any right LBA Realty Fund III Company VIII, LLC may have to a hearing before the Regional Water Board.
- b. I certify that LBA Realty Fund III Company VIII, LLC will remit payment for the proposed penalty in the full amount of two thousand, five hundred seventy-two dollars (\$2,572) by submitting a check made payable to the "State Water Resources Control Board Waste Discharge Permit Fund," that references "Complaint No. R8-2018-0078." Payment must be received by the Regional Water Board by **May 31, 2018** or the Regional Water Board may adopt an Order requiring payment.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Water Board receive significant new information or comments from any source (excluding the Water Board's Prosecution Team) during this comment period, the Regional Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Regional Water Board (or the Regional Board's delegate), and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in LBA Realty Fund III Company VIII, LLC having waived the right to contest the allegations in the Complaint and the imposition of civil liability.

- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

**Jett McCormick, Vice President**

(Print Name and Title)



(Signature)

**May 31, 2018**

(Date)

7036 2070 0000 6A05 4756

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03/05/2018

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Extra Services & Fees (check box, add fee as appropriate)  
 Return Receipt (hardcopy) \$ **\$2.70**  
 Return Receipt (electronic) \$ \_\_\_\_\_  
 Certified Mail Restricted Delivery \$ \_\_\_\_\_  
 Adult Signature Required \$ \_\_\_\_\_  
 Adult Signature Restricted Delivery \$ \_\_\_\_\_

Postmark  
None

Postage  
\$ **\$ .47**

8 33C378515

Total Postage and Fees  
\$ **\$6.47**

481038

Sent To  
**Ms. Vivian Imperial**  
Street and Apt. No. or PO Box No.  
**CI Corporation System**  
City, State, ZIP+4®  
**118 W Seventh Street, Suite 930**  
**Los Angeles, CA 90017**



FAQs > (<http://faq.usps.com/?articleId=220900>)

**Track Another Package +**

**Tracking Number:** 70162070000068054826

Remove X

Your item has been delivered to an agent at 11:39 am on March 9, 2018 in LOS ANGELES, CA 90017.

 **Delivered**

March 9, 2018 at 11:39 am  
Delivered, To Agent  
LOS ANGELES, CA 90017

Get Updates 

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**Text & Email Updates**



---

**Tracking History**



**March 9, 2018, 11:39 am**

Delivered, To Agent  
LOS ANGELES, CA 90017

Your item has been delivered to an agent at 11:39 am on March 9, 2018 in LOS ANGELES, CA 90017.

**March 9, 2018, 10:10 am**

Arrived at Unit  
LOS ANGELES, CA 90057

**How can I help you?**

**March 9, 2018, 1:21 am**  
Departed USPS Regional Origin Facility  
LOS ANGELES CA DISTRIBUTION CENTER

**March 8, 2018**  
In Transit to Next Facility

**March 7, 2018, 11:28 pm**  
Arrived at USPS Regional Origin Facility  
LOS ANGELES CA DISTRIBUTION CENTER

**March 7, 2018**  
In Transit to Next Facility

**March 6, 2018, 11:58 pm**  
Arrived at USPS Regional Origin Facility  
SAN BERNARDINO CA DISTRIBUTION CENTER

**March 6, 2018, 5:35 pm**  
USPS in possession of item  
RIVERSIDE, CA 92501

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**Product Information**



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**See Less** ^

## Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

**How can I help you?**  
**FAQs** (<http://faq.usps.com/?articleId=220900>)

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### Sign Up

[https://reg.usps.com/entreg/RegistrationAction\\_input?](https://reg.usps.com/entreg/RegistrationAction_input?app=UspsTools&appURL=https%3A%2F%2Ftools.usps.com%2Fgo%2FTrackConfirmAction%3FtRef%3Dfullpage&tLc%3D3&text28777%3D%26tLabe...)

\*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed through USPS automated equipment.

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Site Index ( <a href="https://www.usps.com/globals/site/index.htm">https://www.usps.com/globals/site/index.htm</a> )	Newsroom ( <a href="http://about.usps.com/news/welcome.html">http://about.usps.com/news/welcome.html</a> )	Postal Inspectors ( <a href="https://postalinspectors.uspis.gov/">https://postalinspectors.uspis.gov/</a> )	Terms of Use ( <a href="http://about.usps.com/termsfuse.htm">http://about.usps.com/termsfuse.htm</a> )
FAQs ( <a href="http://faq.usps.com/">http://faq.usps.com/</a> )	USPS Service Updates ( <a href="http://about.usps.com/news/alerts/welcome.htm">http://about.usps.com/news/alerts/welcome.htm</a> )	Inspector General ( <a href="http://www.uspsoig.gov/">http://www.uspsoig.gov/</a> )	FOIA ( <a href="http://about.usps.com/who-we-are/foia/welcome.htm">http://about.usps.com/who-we-are/foia/welcome.htm</a> )
	Forms & Publications ( <a href="http://about.usps.com/forms-publications/welcome.htm">http://about.usps.com/forms-publications/welcome.htm</a> )	Postal Explorer ( <a href="http://pe.usps.gov/">http://pe.usps.gov/</a> )	FEAR Act EEO Data ( <a href="http://about.usps.com/who-we-are/eo-135267/welcome.htm">http://about.usps.com/who-we-are/eo-135267/welcome.htm</a> )
	Government Services ( <a href="https://www.usps.com/gov-services/gov-services.htm">https://www.usps.com/gov-services/gov-services.htm</a> )	National Postal Museum ( <a href="http://www.postalmuseum.si.edu/">http://www.postalmuseum.si.edu/</a> )	
	Careers ( <a href="http://about.usps.com/careers/welcome.htm">http://about.usps.com/careers/welcome.htm</a> )	Resources for Developers ( <a href="https://www.usps.com/webtools/welcome.htm">https://www.usps.com/webtools/welcome.htm</a> )	

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**How can I help you?**

To: Keith Elliott

CT

March 09, 2018

Jayne Joy  
Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500,  
Riverside, CA 92501-3348

Re: Santa Ana Regional Water Quality Control Board // To: LBA Realty Fund III Company VIII LLC

Case No. 833C378515

Dear Sir/Madam:

After checking our records and the records of the State of CA, it has been determined that C T Corporation System is not the registered agent for an entity by the name of LBA REALTY FUND III COMPANY VIII, LLC.

CT was unable to forward.

Very truly yours.

C T Corporation System

Log# 532928663

Sent By Regular Mail

cc: --

**(Returned To)**

Jayne Joy  
Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500.  
Riverside, CA 92501-3348

**From:** [McCormick, Jett](#)  
**To:** [Elliott.Keith@Waterboards](mailto:Elliott.Keith@Waterboards)  
**Subject:** Read: EXTERNAL: WDID NO. 8 33C378515 - SETTLEMENT OFFER NO. RS-2018-0040: EXPEDITED PAYMENT PROGRAM  
**Date:** Tuesday, March 13, 2018 3:16:19 PM

---

Your message

To: McCormick, Jett  
Subject: EXTERNAL: WDID NO. 8 33C378515 - SETTLEMENT OFFER NO. RS-2018-0040: EXPEDITED PAYMENT PROGRAM  
Sent: Tuesday, March 6, 2018 3:09:44 PM (UTC-08:00) Pacific Time (US & Canada)  
was read on Tuesday, March 13, 2018 3:14:17 PM (UTC-08:00) Pacific Time (US & Canada).

7015 1520 0002 2639 1712

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Certified Mail Fee

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Extra Services & Fees (check box, add fee as appropriate)

- Return Receipt (hardcopy) \$ \_\_\_\_\_
- Return Receipt (electronic) \$ \_\_\_\_\_
- Certified Mail Restricted Delivery \$ \_\_\_\_\_
- Adult Signature Required \$ \_\_\_\_\_
- Adult Signature Restricted Delivery \$ \_\_\_\_\_

Postmark  
Here

Postage

**Ms. Vivian Imperial (Agent for Service of Process  
National Registered Agents, Inc.  
818 W Seventh Street, Suite 930  
Los Angeles, CA 92505**

ALERT: AS OF APRIL 30, USPS.COM NO LONGER SUPPORTS OUTDATED BROWSER...

# USPS Tracking®

[FAQs > \(http://faq.usps.com/?articleId=220900\)](http://faq.usps.com/?articleId=220900)

**Track Another Package +**

**Tracking Number:** 70151520000226391712

Remove X

Your item has been delivered to an agent at 11:52 am on May 3, 2018 in LOS ANGELES, CA 90017.

 **Delivered**

May 3, 2018 at 11:52 am  
Delivered, To Agent  
LOS ANGELES, CA 90017

Get Updates 

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**Text & Email Updates** 

---

**Tracking History** 

---

**Product Information** 

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See Less 

**Can't find what you're looking for?**

Go to our FAQs section to find answers to your tracking questions.

**FAQs (<http://faq.usps.com/?articleId=220900>)**

### **The easiest tracking number is the one you don't have to know.**

With Informed Delivery®, you never have to type in another tracking number. Sign up to:

- See images\* of incoming mail.
- Automatically track the packages you're expecting.
- Set up email and text alerts so you don't need to enter tracking numbers.
- Enter USPS Delivery Instructions™ for your mail carrier.

### **Sign Up**

**([https://reg.usps.com/entreg/RegistrationAction\\_input?](https://reg.usps.com/entreg/RegistrationAction_input?app=UspTools&appURL=https%3A%2F%2Ftools.usps.com%2Fgo%2FTrackConfirmAction%3FtRef%3Dfullpage&tLc%3D2&text%3D28777%3D&tLabe...))**

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- Return Receipt (hardcopy) \$ \_\_\_\_\_
- Return Receipt (electronic) \$ \_\_\_\_\_
- Certified Mail Restricted Delivery \$ \_\_\_\_\_
- Adult Signature Required \$ \_\_\_\_\_
- Adult Signature Restricted Delivery \$ \_\_\_\_\_

Postmark  
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**Mr. Jett McCormick**  
**LBA Realty Fund III Company VIII, LLC**  
**3347 Michelson Drive, Suite 200**  
**Irvine, CA 92612**

7015 1520 0002 2637 4104

ALERT: AS OF APRIL 30, USPS.COM NO LONGER SUPPORTS OUTDATED BROWSER...

# USPS Tracking®

[FAQs > \(http://faq.usps.com/?articleId=220900\)](http://faq.usps.com/?articleId=220900)

**Track Another Package +**

**Tracking Number:** 70151520000226374104

Remove X

Your item was delivered to the front desk or reception area at 12:40 pm on May 7, 2018 in IRVINE, CA 92612.

 **Delivered**

May 7, 2018 at 12:40 pm  
Delivered, Front Desk/Reception  
IRVINE, CA 92612

**Get Updates** ▼

---

**Text & Email Updates**



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**Tracking History**



**May 7, 2018, 12:40 pm**

Delivered, Front Desk/Reception  
IRVINE, CA 92612

Your item was delivered to the front desk or reception area at 12:40 pm on May 7, 2018 in IRVINE, CA 92612.

---

**May 5, 2018, 9:02 am**

Delivery Attempted - No Access to Delivery Location  
IRVINE, CA 92612

**May 5, 2018, 3:35 am**

Departed USPS Regional Facility  
ANAHEIM CA DISTRIBUTION CENTER

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**May 4, 2018**

In Transit to Next Facility

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**May 3, 2018, 1:27 pm**

Arrived at USPS Regional Facility  
ANAHEIM CA DISTRIBUTION CENTER

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**May 3, 2018**

In Transit to Next Facility

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**May 2, 2018, 8:00 pm**

Arrived at USPS Regional Facility  
SANTA ANA CA DISTRIBUTION CENTER

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**May 2, 2018**

In Transit to Next Facility

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**May 1, 2018, 9:31 pm**

Arrived at USPS Regional Facility  
MORENO VALLEY CA DISTRIBUTION CENTER

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**Product Information**

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See Less 

**Can't find what you're looking for?**

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- Enter USPS Delivery Instructions™ for your mail carrier.

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**([https://reg.usps.com/entreg/RegistrationAction\\_input?](https://reg.usps.com/entreg/RegistrationAction_input?app=UspsTools&appURL=https%3A%2F%2Ftools.usps.com%2Fgo%2FTrackConfirmAction%3FtRef%3Dfullpage&tLc%3D2&text%3D28777%3D&tLabe...))**

\*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed through USPS automated equipment.