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

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/.

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 Ill 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 Ill 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 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

The Fact Sheet describes the complaint process and explains what LBA Realty Fund Ill 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 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 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 or by phone at (916) 322-3538.

Sincerely,

[Signature]
Jayne Joy  
Assistant Executive Officer  
Regional Board Prosecution Team

Enclosures:  
MMP Complaint No. R8-2018-0078  
Proposed Hearing Procedure  
Waiver Form
May 1, 2018

Mr. Jett McCormick
LBA Realty Fund III Company VIII, LLC

Attachment 1: 1st Notice of Non-Compliance, dated 9/12/17
Attachment 2: 2nd 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
Ms. Catherine Hawe, Office of Enforcement, SWRCB,
Catherine.Hawe@waterboards.ca.gov
Ms. Andrea Gonzalez, County of Riverside Program Manager, jgonzale@rivco.org
Mr. Michael Roberts, City of Riverside NPDES Coordinator, mdroberts@riversideca.gov
IN THE MATTER OF:

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

Ms. Vivian Imperial
(Agent for Service of Process)
National Registered Agents, Inc.
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

Complaint No. R8-2018-0078

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/.

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

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 833C378515 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 2nd 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.

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 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.


19. Regional Board staff left voice mail messages on April 2nd 08:15 am; April 3rd 3:10 pm, and April 5th 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.

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 Ill 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 Ill 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 Ill Company VIII, LLC may waive its right to a hearing. If LBA Realty Fund Ill 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 Ill 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 Ill Company VIII, LLC. In the complaint Regional Board staff alleges LBA Realty Fund Ill 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.
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/

**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

Legal
Teresita Sablan
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812
Phone: (916) 341-5174
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

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
**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 Ill 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.
**Proposed Hearing Procedure**

For July 27, 2018

LBA Realty Fund III Company VIII, LLC

**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.*

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<tr>
<th>Date</th>
<th>Event Description</th>
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<tbody>
<tr>
<td>May 1, 2018</td>
<td>Prosecution Team Issues Complaint and Hearing Procedure to LBA Realty Fund III Company VIII, LLC.</td>
</tr>
<tr>
<td>May 3, 2018</td>
<td>LBA Realty Fund III Company VIII, LLC deadline to request a pre-hearing meeting.</td>
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| May 31, 2018| LBA Realty Fund III Company VIII, LLC deadline to submit 90-Day Hearing Waiver Form and payment.  
               LBA Realty Fund III Company VIII, LLC deadline to submit the 2016-17 Annual Report in SMARTS [https://smarts.waterboards.ca.gov](https://smarts.waterboards.ca.gov).  
               Objections due on Proposed Hearing Procedure.  
               **Electronic or Hard Copies to:** All other Designated Parties, all known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney, Prosecution Team Primary Contact, Advisory Team Primary Contact |
| June 8, 2018*| Prosecution Team's deadline for submission of information required under “Submission of Evidence and Policy Statements,” above.  
               **Electronic or Hard Copies to:** All other Designated Parties, all known Interested Persons, Advisory Team Primary Contact, Advisory Team Attorney |
| June 11, 2018*| Deadline to request “Designated Party” status.  
               **Electronic or Hard Copies to:** All other Designated Parties, all known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney, Prosecution Team Primary Contact, Advisory Team Primary Contact |
| June 15, 2018*| Deadline to submit opposition to requests for Designated Party status.  
               **Electronic or Hard Copies to:** All other Designated Parties, all known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney, Prosecution Team Primary Contact, Advisory Team Primary Contact |
| June 22, 2018*| Advisory Team issues decision on Hearing Procedure Objections.  
               Advisory Team issues decision on requests for Designated Party status. |
| July 2, 2018*| 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.  
               Interested Persons’ comments are due.  
               **Electronic or Hard Copies to:** 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*| Prosecution Team’s deadline to submit any rebuttal evidence, any rebuttal to legal arguments, policy statements, and all evidentiary objections. |</p>
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<tr>
<th>Date</th>
<th>Event</th>
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<tr>
<td>July 13, 2018*</td>
<td>Deadline to submit requests for additional time. 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 this deadline. Electronic or Hard Copies to: All other Designated Parties, all known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney, Prosecution Team Primary Contact, Advisory Team Primary Contact</td>
</tr>
<tr>
<td>July 27, 2018*</td>
<td>Advisory Team submits Hearing Information on the parties and Board. Electronic or Hard Copies to: All other Designated Parties, All known Interested Persons, Advisory Team Primary Contact, Advisory Team Attorney</td>
</tr>
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* 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.
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
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
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. You may also contact Keith Elliott at 951-782-4925 or keith.elliott@waterboards.ca.gov.

Sincerely,

Ann Sturdivant, PG, CEG, CHG
Supervising Engineering Geologist
Chief, Groundwater and Regulatory Division
Certified Mail service provides the following benefits:

- A receipt (the control of the Certified Mail item).
- A unique identifier for your records.
- Electronic notification of delivery or attempted delivery.
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Important restrictions:

- You may purchase Certified mail service with First Class Mail, First Class Package Service, or Parcel Post.
- Certified Mail service is not available for international mail.
- 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 Parcel Post items.
- For an additional fee, and with a proper endorsement on the envelope, you may request the following services:
  - Return receipt service, which provides a record of delivery including the recipient’s signature.
  - You may request a hardcopy return receipt or an electronic version, for a hardcopy return receipt, complete Form 3811, Request for Return Receipt form 2011 in your mailbox.

For an electronic return receipt, use a red stamp or the word “service” on the Certified Mail receipt.

To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should be a 2-ounce package. If you would like a proof of the Certified Mail receipt, please request it with your Certified Mail item at a Post Office® for printing. If you don’t need a proof of the Certified Mail receipt, attach the back of the form to the mailpiece, stock the appropriate postage, and deposit the mailpiece.

U.S. Postal Service®
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

OFFICIAL USE

Certified Mail Fee $3.30
2016 2017 0000
1000 3086

0.47

Total Postage and Fees $6.77

833C378515

833C378530

Sent To

Mr. Jokin Vukic
LBA Realty Fund III Company VIII, LLC.
One Embarcadero Center, Suite 710

Footnote
Here

1st NNC

180138
Attachment 2
October 18, 2017

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

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.

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Sincerely,

Original Signed by:

Lauma Willis
Environmental Program Manager
Chief, Planning Division
Santa Ana Regional Water Quality Control Board
Mr. Josip Vukic
LBA Realty Fund III Company VIII, LLC.
One Embarcadero Center, Suite 710
San Francisco, CA 94111
WID: 833C378515  ApplID: 481038
Attachment 3
March 6, 2018

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

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

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

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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 Ill 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) Expeditied 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).
Provision 1.4.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 Waiver 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
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 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
1st Notice of Noncompliance
September 12, 2017

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

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

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Sincerely,

[Signature]

Ann Sturdivant, PG, CEG, CHG
Supervising Engineering Geologist
Chief, Groundwater and Regulatory Division
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| Total Postage and Fee | $6.47 |

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<td>Mr. Josip Vukic</td>
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<td>LBA Realty Fund III Company VIII, LLC.</td>
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<td>181 Embarcadero Center, Suite 710</td>
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For delivery information, visit our website at www.usps.com.
Certified Mail service provides the following benefits:

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

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- Certified Mail service is not available for<br>International mail.
- 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 envelope, you may request the following services:
  - Return receipt service, which provides a record of delivery (including the recipient's signature).
  - A legible return receipt or an electronic version. For a legible return receipt, complete Form 3811, Domestic Return Receipt; attach PS Form 3811 to your envelope.

For an electronic return receipt, use a real

- Restricted delivery service, which provides delivery to the address as specified by name, or to the addressee's authorized agent.
- Adult signature service, which requires the signature to be of at least 21 years of age (available at retail).
- Adult signature restricted delivery service, which requires the signature to be of at least 21 years of age and provides delivery to the address 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 label at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of the label, affix it to the envelope, apply appropriate postage, and deposit the mailing.

IMPORTANT: Save this receipt for your records.

PS Form 3800, April 2010 (Revised) PS Form 7932-03-000-000

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

**Article Addressed to:**

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

WDID: 933C378515  AppD: 481038

**Article Number (Transfer from service label):**

7016 2070 0000 6505 305A

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**Complete this section on delivery**

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If YES, enter delivery address below:

**D. Delivery address:**

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**Service Type:**

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

**Mark:**

- Domestic Return Receipt
- **Return Receipt for Merchandise**
- Signature Confirmation
- Restricted Delivery

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PS Form 3811, July 2015 PSN 7530-02-000-003
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)
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

   Dale Of Delivery
   Yes [ ] No [ ]

   Delivery address different from Item 17? [ ] Yes [ ] No

3. Service Type
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   - Certified Mail Restricted Delivery
   - Collect on Delivery
   - Collect on Delivery Restricted Delivery
   - Overnight Delivery
   - Priority Mail Express
   - Priority Mail International
   - Registered Mail
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   Domestic Return Receipt
   PS Form 3811, July 2015 PSN 7630-02-000-4053
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
Mr. Josip Vukic  
LBA Realty Fund III Company VIII, LLC.  
One Embarcadero Center, Suite 710  
San Francisco, CA 94111

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

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Sincerely,

Original Signed by:

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

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

2. Article Number (Transfer from service label): 7016 2070 0000 16805 4628

SENDERS: COMPLETE THIS SECTION

SENSE: COMPLETE THIS SECTION ON DELIVERY

3. Service Type
   - □ Adult Signature
   - □ Adult Signature Restricted Delivery
   - □ Certified Mail®
   - □ Collect on Delivery
   - □ Certified Mail Restricted Delivery
   - □ Collect on Delivery Restricted Delivery
   - □ Collect on Delivery Restricted Delivery
   - □ Certified Mail Restricted Delivery
   - □ Certified Mail Restricted Delivery

   - □ Priority Mail Express®
   - □ Registered Mail™
   - □ Registered Mail Restricted Delivery
   - □ Signature Confirmation™
   - □ Signature Confirmation Restricted Delivery

   - □ Return Receipt for Merchandise
   - □ Signature Confirmation
   - □ Signature Confirmation Restricted Delivery

   - □ Express Mail

4. Date of Delivery
   - □ Yes
   - □ No

5. Received by (Printed Name)
   P. Mehmedcic

6. Agent
   - □ Yes
   - □ No

7. 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

8. Article Number (Transfer from service label): 7016 2070 0000 16805 4628

9. Domestic Return Receipt

10. PS Form 3811: July 2015 PSN 7530-02-000-9053
Dear Mr. Vukic,

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

Program Type: Construction     Permit WDID Number: 8 33C378515     SMARTS ApplD: 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 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, 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
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:
NATIONAL REGISTERED AGENTS, INC. (C1844327)
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

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 |  |

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

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

https://businesssearch.sos.ca.gov/CBS/Detail
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
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

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

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

9. Article Number (Transfer from service label)
   7036 2070 0000 6805 4626

PS Form 3811; July 2015 PSN 7559-02-000-0053
Domestic Return Receipt
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)
Waiver
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.”

X (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)
<table>
<thead>
<tr>
<th>Service</th>
<th>Amount</th>
<th>Service</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certified Mail Fee</td>
<td>$3.30</td>
<td>Other</td>
<td></td>
</tr>
<tr>
<td>COD Charge</td>
<td>$2.70</td>
<td>Postmark</td>
<td></td>
</tr>
<tr>
<td>Postage</td>
<td>$.47</td>
<td>Return Receipt</td>
<td></td>
</tr>
<tr>
<td>Return Receipt</td>
<td></td>
<td>Fee of $3.30</td>
<td></td>
</tr>
<tr>
<td>Fee of $3.30</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Postage and Fees</td>
<td>$6.47</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sent To:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ms. Vivian Imperial</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CT Corporation System</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>710 W Seventh Street, Suite 930</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Los Angeles, CA, 90014</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PS Form 3800, apr 2019</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>See Reverse for Instructions</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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 √

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

Product Information

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?

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

How can I help you?
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 CT 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,

CT 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
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).
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

Text & Email Updates
Tracking History
Product Information

See Less

Can’t find what you’re looking for?

https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabel=...  5/31/2018
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

*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed through USPS automated equipment.
<table>
<thead>
<tr>
<th>Certified Mail Fee</th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Extra Services &amp; Fees (check box, add fee as appropriate)</td>
<td></td>
</tr>
<tr>
<td>Return Receipt (hardcopy)</td>
<td>$</td>
</tr>
<tr>
<td>Return Receipt (electronic)</td>
<td>$</td>
</tr>
<tr>
<td>Certified Mail Restricted Delivery</td>
<td>$</td>
</tr>
<tr>
<td>Adult Signature Required</td>
<td>$</td>
</tr>
<tr>
<td>Adult Signature Restricted Delivery</td>
<td>$</td>
</tr>
</tbody>
</table>

Certified Mail Receipt (hardcopy) $
Certified Mail Receipt (electronic)

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

**Delivered**

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

**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

May 4, 2018
In Transit to Next Facility

May 3, 2018, 1:27 pm
Arrived at USPS Regional Facility
ANAHEIM CA DISTRIBUTION CENTER

May 3, 2018
In Transit to Next Facility

May 2, 2018, 8:00 pm
Arrived at USPS Regional Facility
SANTA ANA CA DISTRIBUTION CENTER

May 2, 2018
In Transit to Next Facility

May 1, 2018, 9:31 pm
Arrived at USPS Regional Facility
MORENO VALLEY CA DISTRIBUTION CENTER

Product Information

Can’t find what you’re looking for?

https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabe...
Go to our FAQs section to find answers to your tracking questions.

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

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