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Santa Ana Regional Water Quality Control Board

February 10, 2015

Mr. Christopher Macon  
City Manager  
City of Laguna Woods  
24264 El Toro Road  
Laguna Woods, CA 92637

Mr. Bruce Channing  
City Manager  
City of Laguna Hills  
24035 El Toro Road  
Laguna Hills, CA 92653

Mr. Thomas Wheeler, PE  
Director of Public Works/City Engineer  
City of Lake Forest  
25550 Commercentre Drive, Suite 100  
Lake Forest, CA 92630

**Subject: Regional Water Board Designation for Regulating Municipal Separate Storm Sewer System Discharges for the Cities of Laguna Woods, Laguna Hills, and Lake Forest, Orange County**

Messrs. Macon, Channing, and Wheeler:

This is in response to your separately submitted requests seeking designation of a single Regional Water Board to regulate matters pertaining to Phase I municipal separate storm sewer system (MS4) discharges in the Cities of Laguna Hills, Laguna Woods and Lake Forest (jointly referred to herein as Cities). The requests were consolidated for review and this letter is being issued in response to all three requests.

As provided in Water Code section 13228(a), this letter constitutes the California Regional Water Quality Control Board, Santa Ana Region (Santa Ana Water Board) agreement (Agreement) to the Regional Water Board designations specified below.

1. Except as otherwise provided in this Agreement, the Santa Ana Water Board is designated to regulate the entire jurisdictional area of the City of Lake Forest under the Santa Ana Water Board's *National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Orange County Flood Control District, the County of Orange and the Incorporated Cities therein within the Santa Ana Region, Area-wide Urban Runoff, Santa Ana Region* (Order No. R8-2009-0030, NPDES No. CAS618030, as it may be amended or reissued) (Santa Ana Phase I MS4 Permit),<sup>1</sup> including those areas of the City located within the San Diego Water Board's geographic jurisdiction; and
2. Except as otherwise provided in this Agreement, the San Diego Regional Water Quality Control Board (San Diego Water Board) is designated to regulate the entire jurisdictional

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<sup>1</sup> The Santa Ana Regional Board is in the process of revising the Santa Ana Phase I MS4 Permit to include terms and conditions that will effectuate this Agreement (see paragraph 1., Effective Date, below).

areas of the City of Laguna Woods and the City of Laguna Hills under San Diego Water Board's *NPDES Permit and Waste Discharge Requirements for Discharges from the MS4s Draining the Watersheds Within the San Diego Region* (Order No. R9-2013-0001, as amended by Order No. R9-2015-0001, NPDES No. CAS0109266, as it may be further amended or reissued) (San Diego Phase I MS4 Permit),<sup>2</sup> including those areas of each City located within the Santa Ana Water Board's geographic jurisdiction.

This Agreement is based upon the written request submitted by each City, factual considerations and other conditions as summarized below. Any inconsistencies between this Agreement and the Santa Ana Phase I MS4 Permit shall be resolved in favor of the terms and conditions contained in the Santa Ana Phase I MS4 Permit.

### **Regional Water Board Designation Request**

Written requests for designation of a single Regional Water Board to regulate matters pertaining to permitting of Phase I MS4 discharges were submitted to the San Diego Water Board by the City of Laguna Hills by letter dated March 12, 2014 (attached hereto as Exhibit 1), the City of Laguna Woods by letter dated September 8, 2014 (attached hereto as Exhibit 2), and the City of Lake Forest by letters dated January 14, 2013, and April 4, 2014 (attached hereto as Exhibit 3). The City of Laguna Hills and the City of Laguna Woods requested designation of the San Diego Water Board, and the City of Lake Forest requested designation of the Santa Ana Water Board. Water Code section 13228 specifies the circumstances that allow, and the process for, designation of a Regional Water Board.

### **Factual Considerations**

The Cities each lay partially within the geographic jurisdictional boundaries of the San Diego Water Board and the Santa Ana Water Board. Phase I MS4 discharges in portions of the Cities are currently regulated under separate Phase I MS4 NPDES permits issued by the Santa Ana Water Board and by the San Diego Water Board.

The Santa Ana Water Board and San Diego Water Board establish generally consistent requirements for MS4 dischargers to a) meet the technology-based standard of reducing pollutants in MS4 discharges to the maximum extent practicable (MEP); b) implement a related iterative process to ensure MS4 discharges meet receiving water quality standards; and c) effectively prohibit non-storm water discharges from entering the MS4. However due to the unique nature of watersheds and water quality issues in the San Diego Region and Santa Ana Region, MS4 permit requirements between the two Regional Water Boards may also vary to address region specific pollutant discharges and watershed conditions. The Cities report that management and implementation of municipal programs to comply with two different MS4 permits creates a significant administrative and financial burden that is not contributing to greater overall water quality improvements in either region.

The Santa Ana Water Board recently released for public comment a second draft of the revised Santa Ana Phase I MS4 Permit. The current written public comment period is scheduled to close February 13, 2015. The Santa Ana Water Board intends to revise the draft version of the revised Santa Ana Phase I MS4 Permit to include terms and conditions consistent with this Agreement. The Santa Ana Water Board intends to consider adoption of the revised Santa Ana Phase I MS4 Permit in the next few months.

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<sup>2</sup> While the San Diego Phase I MS4 Permit has not been adopted as of the date of this letter, the effective date of this Agreement is contingent upon its adoption (see paragraph 1., Effective Date, below)

The San Diego Water Board is scheduled to hold a public hearing on February 11, 2015 to consider adoption of Tentative Order No. R9-2015-0001, *An Order Amending Order No. R9-2013-0001, NPDES No. CAS010266, National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region* (Tentative Order). The Tentative Order proposes to amend the San Diego Phase I MS4 Permit for a variety of reasons including incorporation of the County of Orange, Orange County Flood Control District, and the cities of Aliso Viejo, Dana Point, Lake Forest<sup>3</sup> Laguna Beach, Laguna Hills, Laguna Niguel, Laguna Woods, Mission Viejo, Rancho Santa Margarita, San Clemente, and San Juan Capistrano as MS4 dischargers responsible for compliance with the terms and the conditions of the San Diego Phase I MS4 Permit. The Tentative Order also proposes limited permit provisions addressing Regional Water Board designation to consolidate regulation of the Cities of Laguna Hills, Laguna Woods, and Lake Forest pursuant to Water Code section 13228, in accordance with the terms of this Agreement.

### **Santa Ana Water Board Conditions for Regional Water Board Designation**

This Agreement is conditional upon the following:

1. **Effective Date.** To avoid gaps or duplication in regulation until both Regional Water Boards have acted to adopt their Phase I MS4 Permits with terms and conditions that effectuate this Agreement, the Regional Water Board designations described in this Agreement shall become effective on the date on which both the Santa Ana Phase I Permit and San Diego Phase I MS4 Permits which include terms and conditions which effectuate this Agreement are adopted and effective.
2. **Applicability of Designation.** Except as otherwise provided herein, this Agreement enables each City to be regulated under a single Phase I MS4 Permit.
3. **Conformance with Written Request.** Upon the effective date of this Agreement, each City shall implement the water quality protection measures described in its written request for designation and attached as Exhibits 1, 2 and 3 hereto as reflected in the Santa Ana and San Diego Phase I Permits. These water quality protection measures are incorporated by reference into this Agreement as if fully stated herein. The conditions of this Agreement shall supersede any conflicting provisions in the Cities' written requests.
4. **Enforcement Authority.** Each Regional Water Board reserves its right to take any enforcement action against a City, as authorized by law for any violations of the terms and conditions of the applicable Phase I MS4 Permit which affects that Regional Water Board pursuant to Water Code section 13228(b). Responsibility for undertaking enforcement to compel compliance with permit conditions will generally be assumed by the Regional Water Board that issued the Phase I MS4 Permit.
5. **Total Maximum Daily Load Requirements for the City of Laguna Woods or the City of Laguna Hills.** Any Total Maximum Daily Load (TMDL) and associated Phase I MS4 permit requirements issued by the Santa Ana Water Board and applicable to the City of Laguna

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<sup>3</sup> Until this Agreement is effective, the City of Lake Forest within the San Diego Water Board's geographical region will be covered under Order No. R9-2013-0001 as amended by Order No. R9-2015-0001.

Woods or the City of Laguna Hills will be incorporated into the appropriate Phase I MS4 permit by reference and remain applicable.

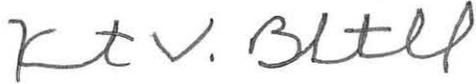
6. **Total Maximum Daily Load Requirements for the City of Lake Forest.** Any TMDL and associated Phase I MS4 permit requirements issued by the San Diego Water Board and applicable to the City of Lake Forest will be incorporated into the appropriate Phase I MS4 Permit by reference and remain applicable.
7. **Construction Site Storm Water Program.** Construction sites in the Cities regulated under the statewide *General Permit for Construction Discharges of Storm Water Associated with Construction Activities*, Order No. 2009-0009-DWQ and any subsequent reissuance (Construction General Storm Water Permit) will continue to be subject to regulation by the Santa Ana Water Board or the San Diego Water Board as determined by the geographical jurisdictional area of each Regional Water Board. The Santa Ana Water Board will notify the San Diego Water Board of any incidents of noncompliance discovered during inspections of construction sites within its geographic jurisdictional boundary that discharge into an MS4 owned or operated by the City of Laguna Woods or the City of Laguna Hills. The San Diego Water Board will notify the Santa Ana Water Board of any incidents of noncompliance discovered during inspections of construction sites within its geographic jurisdictional boundary that discharge into an MS4 owned or operated by the City of Lake Forest.
8. **Industrial Site Storm Water Program.** Industrial sites in the Cities subject to regulation under the statewide *General Permit for Industrial Discharges of Storm Water Associated with Industrial Activities*, Order No. 97-03-DWQ and any subsequent reissuance (Industrial General Storm Water Permit) will continue to be subject to regulation by the Santa Ana Water Board or the San Diego Water Board as determined by the geographical jurisdictional area of each Regional Water Board. The Santa Ana Water Board will notify the San Diego Water Board of any incidents of noncompliance discovered during inspections of industrial sites within its geographic jurisdictional boundary that discharge into an MS4 owned or operated by the City of Laguna Woods or the City of Laguna Hills. The San Diego Water Board will notify the Santa Ana Water Board of any incidents of noncompliance discovered during inspections of industrial sites within its geographic jurisdictional boundary that discharge into an MS4 owned or operated by the City of Lake Forest.
9. **Municipal Construction Projects.** For all municipal construction projects, including those projects located within the jurisdictional area of the Santa Ana Water Board, the City of Laguna Woods and the City of Laguna Hills will submit Permit Registration Documents (PRDs) in the form of a Notice of Intent (NOI) with appropriate fees in accordance with the manner prescribed in the statewide Construction General Storm Water Permit. For all municipal construction projects, including those projects located within the jurisdictional area of the San Diego Water Board, the City of Lake Forest will use the process established by the Santa Ana Water Board for obtaining coverage under the Construction General Storm Water Permit.
10. **Municipal Corporate Yards.** The City of Laguna Woods and the City of Laguna Hills currently do not have municipal corporate yards. If either City creates a municipal corporate yard during the term of this Agreement, the City shall obtain coverage under the statewide Industrial General Storm Water Permit for the municipal corporate yard.
11. **Water Quality Improvement Plan.** The San Diego Phase I MS4 Permit requires responsible agencies within designated Watershed Management Areas to develop and

implement a Water Quality Improvement Plan. The Water Quality Improvement Plan is a comprehensive watershed plan that identifies priority water quality conditions, water quality improvement goals, pollutant control strategies, and implementation schedules to achieve the goals. The requirements of TMDLs adopted by the San Diego Water Board have been incorporated into the requirements of the Water Quality Improvement Plan allowing the City of Lake Forest and the other responsible agencies within the South Orange County Watershed Management Area to develop a single plan to coordinate their non-storm water and storm water runoff management programs. The City of Lake Forest will continue to actively participate in the development and implementation of the Water Quality Improvement Plan for the Aliso Creek Watershed Management Area.

12. **Over-Irrigation Prohibitions.** The City of Lake Forest will continue to retain and implement its prohibition in the City Municipal Code against non-storm water discharges from over-irrigation practices throughout its jurisdiction. The City of Laguna Woods will continue to retain and implement its prohibition in the City Municipal Code against non-storm water discharges from over-irrigation practices throughout its jurisdiction, including those areas that drain to an MS4 within the geographic jurisdictional boundary of the Santa Ana Water Board. The City of Laguna Hills will continue to retain and implement its prohibition in the City Municipal Code against non-storm water discharges from over-irrigation practices throughout its jurisdiction, including those areas that drain to an MS4 within the geographic jurisdictional boundary of the Santa Ana Water Board.
13. **Unified Beach Water Quality Monitoring.** The Cities, together with Orange County Health Care Agency, and South Orange County Wastewater Authority, will participate in and share responsibility for implementation of the unified regional beach water quality monitoring and assessment program in south Orange County established in the California Water Code section 13383 directive issued by the San Diego Water Board Executive Officer on December 5, 2014 (attached hereto as Exhibit 4).
14. **Citizen Complaints.** Citizen complaints received regarding discharges from municipal, construction, industrial, and commercial sites to MS4s within the jurisdiction of the City of Laguna Woods or the City of Laguna Hills will be referred to the San Diego Water Board for review. Citizen complaints received regarding discharges from municipal, construction, industrial, and commercial sites to MS4s within the City of Lake Forest will be referred to the Santa Ana Water Board for review.
15. **Annual Reports.** Annual Reports prepared by each City pursuant to its Phase I MS4 Permit requirements shall be a single report encompassing the entire geographic jurisdictional area of the City, using the format prescribed in the applicable Phase I MS4 Permit. The Annual Reports shall be submitted to the Regional Water Board that issued the applicable Phase I MS4 NPDES Permit.
16. **Periodic Review of Agreement.** The basis supporting the Cities of Laguna Woods, Laguna Hills, and Lake Forest's requests to designate a single Regional Water Board for regulatory oversight may change under future conditions and circumstances. Therefore the Santa Ana Water Board will periodically review the effectiveness of this Agreement during each Phase I MS4 Permit reissuance. Based on this periodic review the Santa Ana Water Board may terminate the Agreement with the San Diego Water Board or otherwise modify the Agreement subject to the approval of the San Diego Water Board.

This Agreement is subject to revision or revocation at any time. For questions or comments, please contact Adam Fischer by phone at (951) 320-6363 or by email at [Adam.Fischer@waterboards.ca.gov](mailto:Adam.Fischer@waterboards.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Kurt V. Berchtold". The signature is written in a cursive, somewhat stylized font.

Kurt V. Berchtold  
Executive Officer  
Santa Ana Regional Water Quality Control Board

Enclosures: Exhibit 1. City of Laguna Woods, September 8, 2014 written request  
Exhibit 2. City of Laguna Hills, March 12, 2014 written request  
Exhibit 3. City of Lake Forest, January 14, 2013 and April 4, 2014 written requests  
Exhibit 4. Unified Beach Water Quality Monitoring and Assessment Program

cc: David Gibson, Executive Officer, San Diego Water Board



SAN DIEGO REGIONAL  
WATER QUALITY  
CONTROL BOARD

2014 MAR 21 AM 10 47

CITY OF LAGUNA HILLS

City Manager

March 12, 2014

Mr. Kurt Berchtold  
Executive Officer  
California Regional Water Quality  
Control Board - Santa Ana Region  
3737 Main Street, Suite 500  
Riverside, CA 92501-3339

Mr. David W. Gibson  
Executive Officer  
California Regional Water Quality  
Control Board - San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4340

SUBJECT: REQUEST TO DESIGNATE THE SAN DIEGO REGIONAL WATER  
QUALITY CONTROL BOARD AS THE REGULATORY AUTHORITY FOR  
ALL STORMWATER DISCHARGES IN THE CITY OF LAGUNA HILLS

Dear Messrs. Berchtold and Gibson:

The City of Laguna Hills is located within south Orange County and covers an area of approximately 6.6 square miles. About 82% of the City's land area is located within the Aliso Creek and San Juan Creek Watersheds under the jurisdiction of the San Diego Regional Water Quality Control Board (SDRWQCB) with the remaining 18% (1.2 square miles) of the City in the Newport Bay/San Diego Creek Watershed under the jurisdiction of the Santa Ana Regional Water Quality Control Board (SARWQCB). Attached for your reference is a map of the City overlaid with the jurisdictional boundary between the two Regional Boards.

The City is a co-permittee in two Municipal Separate Storm Sewer System (MS4) Permits, Order R9-2009-0002 and Order R8-2009-0030 issued by the SDRWQCB and the SARWQCB, respectively. Both jurisdictions issue comprehensive Large MS4 Permits that require the City to implement extensive compliance programs. Differences in the requirements of both Regions' Large MS4 Permits have significant impacts on City operations. Major program level differences force the City to implement what

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Mr. Kurt Berchtold  
Mr. David W. Gibson  
March 12, 2014  
Page 2

amounts to two different compliance programs within City limits. This results in a significant resource and administrative burden which, in turn, reduces available resources for program implementation. Therefore, in accordance with California Water Code Section 13228, the City of Laguna Hills requests that the SARWQCB and the SDRWQCB both agree to designate SDRWQCB for regulation of all portions of the City, regardless of Regional Board jurisdictional boundaries, for matters pertaining to MS4 permitting.

The City is currently a named co-permittee on Order R8-2009-0030 issued by the SARWQCB (Santa Ana Permit), and Order R9-2009-0002 with the SDRWQCB (San Diego Permit). While having the same goal of reducing the discharge of pollutants from the MS4 system, these two Permits include different requirements. As a result, programs designed to be in compliance with the Santa Ana Permit are similar, but necessarily different than programs designed for compliance with the San Diego Permit. When this situation is applied within a single City, such as the City of Laguna Hills, having two different Permits and related implementation programs creates significant confusion among both City staff and the public, which can lead to inconsistent and inefficient protection of water quality. Additionally, and no less significant, there is a duplicative administrative and financial burden that is inherent in complying with two MS4 Permits: two sets of programs have to be developed; staff has to be trained on two sets of requirements with differing frequencies; business inspections must inspect for and track different information at differing frequencies; and two sets of annual reports have to be created with each report being required to include different information; among other differing requirements.

The City of Laguna Hills' request is not unique in that similar requests regulating MS4 discharges to a single Regional Board jurisdiction, despite being split across a watershed boundary, have been granted in 2010 in Riverside County to the cities of Murrieta, Wildomar, and Menefé; the SARWQCB is working with the Los Angeles Regional Water Quality Control Board to regulate discharges of bacteria from the cities of Claremont and Pomona across boundaries; and the City of Lake Forest has requested single jurisdictional coverage into the SARWQCB.

This request by the City of Laguna Hills is made with the understanding that:

- For the purposes of MS4 permitting only, the SDRWQCB would regulate the entirety of the City of Laguna Hills. As a result, the City of Laguna Hills would be subject to a single MS4 permit, which would be issued by the SDRWQCB.
- Enforcement of any provisions of the MS4 permit issued to the City of Laguna Hills would be performed by the SDRWQCB.
- Any TMDLs and associated MS4 permit requirements issued by the SARWQCB, which include the City of Laguna Hills as a responsible party, will

Mr. Kurt Berchtold  
Mr. David W. Gibson  
March 12, 2014  
Page 3

- be incorporated into the MS4 permit issued by the SDRWQCB by reference, including any associated provisions, findings or elements of the fact sheet.
- Enforcement of any TMDL will remain with the Regional Board that has jurisdiction over the targeted impaired water body.
  - Other Waste Discharge Requirements, or other Orders issued or enforced by the SARWQCB would remain wholly under the jurisdiction of the SARWQCB.

Some facts about the City of Laguna Hills and the portion within the jurisdiction of the SARWQCB are described below. Also enclosed with this letter is a map of the City with the subject area highlighted.

- Total Area of the City = 6.6 square miles
- Area within the Santa Ana Region Watershed = 1.2 square miles
- Percent of City in the Santa Ana Region Watershed = 18%

The requested designation of regulatory authority to the SDRWQCB will not only reduce the complexity and administrative burden upon the City of Laguna Hills, but will allow the City to better focus and effectively utilize its available resources to the best benefit of stormwater quality in both Regions.

If you have any questions regarding this request, please contact Director of Public Services Kenneth Rosenfield at (949) 707-2655 or [krosenfield@ci.laguna-hills.ca.us](mailto:krosenfield@ci.laguna-hills.ca.us).

Sincerely,



BRUCE E. CHANNING  
City Manager

Attachment: Map of the City of Laguna Hills

- c: Kenneth Rosenfield, Director of Public Services  
Humza Javed, Associate Civil Engineer  
Greg Simonian, City Attorney  
Chris Crompton, OC Public Works



REGION 8  
SARWQCB

El Toro  
Road

REGION 9  
SDRWQCB

CITY OF LAGUNA HILLS  
CITY MAP



CITY of LAGUNA WOODS

Bert Hack  
Mayor

Cynthia Conners  
Mayor Pro Tem

Noel Hatch  
Councilmember

Shari L. Horne  
Councilmember

Bob Ring  
Councilmember

Christopher Macon  
City Manager

September 8, 2014

Mr. Kurt Berchtold, Executive Officer  
Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501-3348

Mr. David W. Gibson, Executive Officer  
San Diego Regional Water Quality Control Board  
2375 Northside Drive, Suite 100  
San Diego, CA 92108-2700

**SUBJECT: Request to Obtain Coverage Under a Single National Pollutant Discharge Elimination System (NPDES) Permit**

Dear Mr. Berchtold and Mr. Gibson:

Thank you for your continued consideration of the City of Laguna Woods' request to obtain coverage under a single National Pollutant Discharge Elimination System (NPDES) Permit, in lieu of the split coverage that the City currently experiences between the Santa Ana and San Diego regional water quality control boards. Like our colleagues in the cities of Laguna Hills and Lake Forest, the City is seeking this regulatory change in the interest of being able to better focus our water quality improvement and protection efforts through the reduction of unintentionally duplicative and cumbersome administrative burdens.

It is the City's belief that obtaining single coverage under the San Diego Regional Water Quality Control Board's NPDES Permit would most efficiently and effectively leverage the public and private relationships that have been key in making positive environmental strides in the past, while also respecting the significance of the Water Code Section 13225-impaired waterbody to which Laguna Woods discharges directly. The City recognizes and accepts that our obligations for Total Maximum Daily Loads (TMDLs) and waste discharge orders issued or enforced by either regional water quality control board would remain unchanged.

If you have any questions or concerns, or would like to discuss this request further, please do not hesitate to contact me at (949) 639-0525 or [cmacon@lagunawoodscity.org](mailto:cmacon@lagunawoodscity.org).

Sincerely,

Christopher Macon  
City Manager



Chris  
Exhibit 3.

SAN DIEGO  
WATER QUALITY  
CONTROL BOARD

2014 APR 10 PM 12 32

April 4, 2014

Mr. David Gibson  
Executive Officer  
California Regional Water Quality Control Board,  
San Diego Region  
2375 Northside Drive, Suite 100  
San Diego, CA 92108-2700

Mayor  
Dwight Robinson

Mayor Pro Tem  
Adam Nick

Council Members  
David A. Bass  
Kathryn McCullough  
Scott Voigts

City Manager  
Robert C. Dunck

Subject: Clarification of the City of Lake Forest Request as Outlined in the City's January 14, 2013 correspondence.

Dear Mr. Gibson:

Thank you for returning my call. Although we haven't had the opportunity to speak in person, your message was helpful in understanding the current status of the City's request. I am writing with confidence that my staff and I can provide clarification that may add to your understanding of the nature of our request and note the opportunities and importance of present timing.

#### Clarification of Request

A little over a year ago, the City of Lake Forest (City) submitted a formal request to both regional boards having regulatory oversight for stormwater in the City; namely, the San Diego and Santa Ana Regional Water Quality Control Boards (SDRWQCB and SARWQCB, respectively). We wish to clarify that our intent and request is to be regulated by the SARWQCB only for MS4 permitting purposes. The City recognizes that a written agreement between the two Regional Boards would have limitations including, probably most significantly, the Bacterial TMDL in the San Diego Region. It continues to be the City's intent to participate in the Bacterial TMDL. Indeed, considering that bacteria indicator issues appear to be a watershed/regional issue we recognize the value in developing a watershed/regional solution(s). The City has a long and successful history of collaboration with the County of Orange and the other south Orange County cities regulated by the San Diego Board, and we wish to continue these efforts in the same manner. It is our intent to continue development and implementation of programs related to the Bacteria TMDL through the Comprehensive Load Reduction Plan along with the other Co-Permittees working together within the Aliso Creek Watershed.

#### Significance to the City of Lake Forest

Designating the SARWQCB as the single Regional Board regulator represents a significant and important solution for the City in implementing the day-to-day activities typically associated with MS4 permit compliance. Reducing and/or eliminating regulatory



disparities, confusion and overlap is a priority for the City and the public we serve who are subject to these same regulatory requirements. Even minor disparities between the two MS4 permits can and do have significant impacts to the City and to the public's financial and resource burdens. We are aware that other cities (please see references below) have successfully requested and have been approved for similar/same requests. The importance and significance of purpose for these regulatory modifications has not been lost on City staff. We respectfully submit that it is a prudent and necessary solution to achieve responsible governance that is long overdue. Based upon our discussions with SARWQCB staff and the other successfully implemented cases referenced below, the mechanism required to institute regulation of the MS4 permit activities by a single Regional Board is through a relatively brief letter agreement and potentially brief recognition in the MS4 permit itself. In addition, it is our understanding that the City of Laguna Hills also recognizes the significant value of a single MS4 permit and they may be interested in being regulated by the SDRWQCB as a single regulator. Since much can be gained through relatively little effort, the City believes this opportunity to be a worthy effort and we ask for your support to make it happen.

#### Timing

The City is aware of SDRWQCB staff's suggestion to wait until the Report of Waste Discharge (ROWD) is submitted by the south Orange County cities for regulation under the new SDRWQCB Regional MS4 Permit. However, we would like to bring to your attention that the SARWQCB MS4 permit adoption schedule is ahead of the schedule for the San Diego Region. In consideration that approximately 70% of the City's land area resides within the jurisdiction of the SARWQCB, and the City is requesting the SARWQCB to be designated as the single regulator for MS4 permit compliance, an agreement to proceed from you and your staff would be very timely, and is urgently requested. Based upon our discussions with SARWQCB staff, they are very supportive of our request, but would like to receive your concurrence.

#### Examples of Precedence and Previous Successful Implementation

The City is aware of a letter agreement between the SDRWQCB and the SARWQCB that established a single designated Regional Board to regulate the Cities of Murrieta, Meniffee, and Wildomar, pursuant to Water Code Section 13228, subdivision (a).

Similar to the above example, the City is aware of another letter agreement between the Los Angeles Regional Water Quality Control Board and the SARWQCB designating the SARWQCB as the single regulator of discharges of bacteria by the Cities of Claremont and Pomona through their MS4s to receiving waters within the Middle Santa Ana River Watershed.

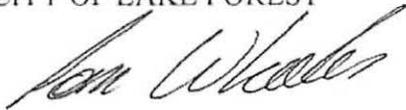
We appreciate the opportunity to provide clarification for our January 14, 2013 request and bring your attention to the importance of present timing related to the SARWQCB MS4 permit adoption schedule. We are optimistic you will find our request to be consistent with the five examples provided above and we request your concurrence at your earliest convenience in order to facilitate a path forward under the SARWQCB MS4 permit adoption schedule.

I will be in contact with you to set up a meeting between the SARWQCB and SDRWQCB staff in addition to the Cities of Lake Forest and Laguna Hills staff to further discuss this opportunity.

If you should have any questions, please contact Devin Slaven, Water Quality Administrator at (949) 461-3436 or me at (949) 461-3481.

Sincerely,

CITY OF LAKE FOREST

A handwritten signature in cursive script, appearing to read "Tom Wheeler".

Thomas Wheeler, P.E.  
Director of Public Work/City Engineer

cc: Kurt Berchtold, Executive Officer, SARWQCB  
Robert Dunek, City Manager  
Devin Slaven, Water Quality Administrator

CITY OF LAKE FOREST



January 14, 2013

Via US Mail and E-mail

**Mayor**  
Scott Voigts

**Mayor Pro Tem**  
Kathryn McCullough

**Council Members**  
Peter Herzog  
Adam Nick  
Dwight Robinson

**City Manager**  
Robert C. Dunek

Mr. Kurt Berchtold  
Executive Officer  
California Regional Water Quality Control Board, Santa Ana Region  
3737 Main Street, Suite 500  
Riverside, CA 92501-3339

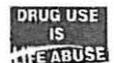
Mr. David W. Gibson  
Executive Officer  
California Regional Water Quality Control Board, San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4340

Re: Request to Designate the Santa Ana Regional Water Quality Control Board to Regulate Discharges from the MS4 owned by the City of Lake Forest

Dear Messrs. Berchtold and Gibson:

The City of Lake Forest (City) is located within southwestern Orange County, and covers an area of approximately 17 square miles. Approximately 70% of the City's land area is located within the Newport Bay/San Diego Creek Watershed which is under the jurisdiction of the California Regional Water Quality Control Board, Santa Ana Region (SARWQCB). The remaining 30% of the City's land area is located within the Aliso Creek Watershed which is under the jurisdiction of the California Regional Water Quality Control Board, San Diego Region (SDRWQCB). Attached for your reference, is a map of the City depicting the jurisdictional boundary between the SARWQCB and SDRWQCB (Regional Boards).

Because of this situation, the City is subject to two separate Municipal Separate Storm Sewer System (MS4) Permits issued by the respective Regional Boards. Both jurisdictions issue comprehensive large MS4 Permits that require the City to implement extensive compliance programs. Differences in the substantive requirements of both Regions' Large MS4 Permits have significant impacts on City operations. Major program level differences force the City to implement what amounts to two different compliance programs within City limits. This results in a significant resource and administrative burden which, in turn, causes valuable resources to be diverted away from program implementation.



January 14, 2013

Mr. Kurt Berchtold  
Santa Ana Regional Water Quality Control Board  
Mr. David W. Gibson  
San Diego Regional Water Quality Control Board  
Re: Request for Singular Regulation

Based upon the issues outlined above and consistent with California Water Code section 13228, the City of Lake Forest hereby requests that the Regional Boards agree to designate the SARWQCB for regulation of all portions of the City for matters pertaining to MS4 permitting, regardless of Regional Board jurisdictional boundaries. In this manner, the City of Lake Forest would be subject to a single MS4 permit.

City staff is aware that similar requests have been granted to the Cities of Murrieta, Menifee, and Wildomar in Riverside County. We are also aware that the SARWQCB is working with the Los Angeles Regional Water Quality Control Board to regulate discharges of bacteria from the cities of Claremont and Pomona. In addition, we are aware that the City of Laguna Hills will be submitting a similar request to this one; however, it is our understanding that Laguna Hills will be requesting to be singularly regulated by the SDRWQCB as the majority of their land area is located within the SDRWQCB jurisdiction.

Below, please find a discussion of the basis for this request and a description of the portion of the city that is proposed to be regulated by the Santa Ana Regional Water Quality Control Board.

#### **Basis for the request**

The City is currently named as a Permittee in Order R8-2009-0030 issued by the SARWQCB (Santa Ana Permit), and Order R9-2009-0002 issued by the SDRWQCB (San Diego Permit). It is also notable that the SDRWQCB is currently in the process to consider adoption of a new MS4 permit covering the entire region of the SDRWQCB jurisdiction, including the Counties of San Diego, Riverside, and Orange. While both of the above referenced Orders indicate the same goal of reducing the discharge of pollutants from the MS4 system, these two Orders require the City to implement extensive, but different, compliance programs. Differences in the substantive requirements of each Region Board's Orders can have significant impacts on City operations and compels the City to implement what amounts to two different compliance programs within its jurisdiction. In turn, this results in increased resource and administrative burden, which can cause inherent and unavoidable inefficiencies in program implementation. For example, there are inherent duplicative administrative and financial burdens related to the development and implementation of two different programs; staff training for different requirements; development of different compliance information for staff, contractors, developers, businesses, and the general public; development and implementation compliance program components such as differing inventory, prioritization, inspection, and documentation requirements, and different annual reporting requirements; etc. In addition, attempting to implement two differing programs creates difficulties, inefficiencies, and confusion for City staff and the public. The overarching goal and purpose of the City's request is to reduce the aforementioned complexity to allow for the more effective and focused utilization of the City's resources to the benefit of water quality.

January 14, 2013

Mr. Kurt Berchtold  
Santa Ana Regional Water Quality Control Board  
Mr. David W. Gibson  
San Diego Regional Water Quality Control Board  
Re: Request for Singular Regulation

**Description of the area of the City subject to the designation:**

Some facts about the City of Lake Forest and the portions of the City located within different watersheds and different Regional Board jurisdictions. A map of the City depicting the Regional Board boundary is enclosed with this letter.

- 17 Square Miles\*- Total Land Area of the City
- 11.5 Square Miles\* – Total Land Area located in the Newport Bay/San Diego Creek Watershed (SARWQCB Jurisdiction)
- Approximately 5.5 Square Miles\* - Total Land Area located in the Aliso Creek Watershed (SDRWQCB jurisdiction)
- 70% of Total Land Area\* - Percent of City in the Newport Bay/San Diego Creek Watershed (SARWQCB Jurisdiction)
- 30% of Total Land Area\* – Percent of City in the Aliso Creek Watershed (SDRWQCB Jurisdiction)

(\* approximate)

**Additional Request for Municipal Construction Projects Requiring Coverage Under the State Construction General Permit:**

Understanding that the requested designation applies to the MS4 permit requirements, the SARWQCB implements a simplified process for applying for coverage under the General Construction Permit (Order 2009-0009-DWQ) for municipal projects. This process includes submission of Permit Registration Documents (PRDs) through a special category within the Storm Water Multiple Application and Reporting Tracking System (SMARTS) and waived application fees. To avoid unnecessary confusion among staff, and potential for inadvertent non-compliance, the City hereby requests to utilize the SARWQCB process to obtain coverage under the Construction General Permit for all municipal construction projects within the City limits (including those portions of the City located within the Aliso Creek Watershed).

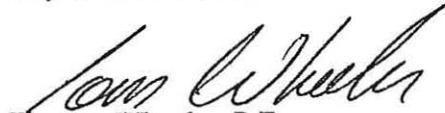
In conclusion, the requested designation of regulatory authority to the SARWQCB will not only reduce the complexity and administrative burden upon the City of Lake Forest, but will allow the City to better focus and effectively utilize their available resources to the best benefit to water quality in both regions.

January 14, 2013

Mr. Kurt Berchtold  
Santa Ana Regional Water Quality Control Board  
Mr. David W. Gibson  
San Diego Regional Water Quality Control Board  
Re: Request for Singular Regulation

If you have any questions regarding this request, please contact Devin Slaven, Water Quality Administrator, at 949-461-3436 or [dslaven@lakeforestca.gov](mailto:dslaven@lakeforestca.gov).

Sincerely,  
City of Lake Forest



Thomas Wheeler, P.E.  
Director of Public Works/City Engineer

Attachments:

Map of the City of Lake Forest Depicting Regional Board Boundary

cc:

Robert Dunek, City Manager  
Devin Slaven, CPSWQ, QSD/QSP, Water Quality Administrator  
Scott Smith, City Attorney, Best Best & Krieger, LLP  
Mary Anne Skorpanich, County of Orange, OC Watersheds



# CITY OF LAKE FOREST WATERSHED BOUNDARIES

NEWPORT BAY  
WATERSHED

ALISO  
CREEK  
WATERSHED





Exhibit 4.



EDMUND G. BROWN JR.  
GOVERNOR



MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## California Regional Water Quality Control Board, San Diego Region

TO: South Orange County Wastewater Authority (SOCWA)  
South Orange County Municipal Separate Storm Sewer System (MS4) Copermittees  
(via Email; see attached mailing list)

In reply refer to / attn:  
257590:bposthumus  
257592:bposthumus  
658018:bposthumus

**Subject: Requirements for Implementation of a Unified Beach Water Quality Monitoring and Assessment Program in South Orange County (Water Code Section 13383)**

The Code of Federal Regulations (CFR) at 40 CFR section 122.48 requires that all National Pollutant Discharge Elimination System (NPDES) permits specify monitoring and reporting requirements. California Water Code section 13383 also authorizes the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) to establish monitoring and reporting requirements for discharges to surface waters regulated by NPDES permits within the San Diego Region.

This letter serves to establish requirements, pursuant to Water Code section 13383,<sup>1</sup> that your agencies participate in, and, together with Orange County Health Care Agency (OCHCA), share responsibility for implementation of the unified regional monitoring program (Unified Program) set forth in the attached report ("Workgroup Recommendation for a Unified Beach Water Quality Monitoring and Assessment Program in South Orange County"), effective April 1, 2015. A draft of this letter was made available for public review and written comments for a 30-day period starting on October 30, 2014; no written comments were received.

The Unified Program, which is incorporated herein, was developed during the period from July 2012 to September 2014 by a workgroup that included representatives of SOCWA, Orange County Public Works, OCHCA, and other entities and individuals with interests in beach water quality in south Orange County. The Unified Program is intended to be protective, reasonable, and equitable and to meet or go beyond meeting the requirements for beach water quality monitoring and related public notification and reporting established by State law.

Effective April 1, 2015, the requirements established through issuance of this Water Code section 13383 letter directive will become enforceable components of the monitoring and reporting requirements of the NPDES permits for discharges from the (a) SOCWA Aliso Creek Ocean Outfall, (b) SOCWA San Juan Creek Ocean Outfall, and (c) south Orange County MS4s.<sup>2</sup> This letter directive is being issued to the NPDES permittees for those discharges, i.e., SOCWA (permittee for discharges from the Aliso Creek Ocean Outfall and the San Juan Creek Ocean Outfall) and the County of Orange,

<sup>1</sup> Use of an Executive Officer-issued directive, e.g., pursuant to Water Code section 13383, to require participation in and shared responsibility for implementation of the Unified Program and to specify the effective date of any revisions thereto facilitates putting the program and any such revisions into effect expeditiously and with the same effective date for all parties.

<sup>2</sup> The order numbers and NPDES numbers of these three permits, respectively, are:  
(a) SOCWA Aliso Creek Ocean Outfall: Order No. R9-2012-0013 (NPDES No. CA0107611);  
(b) SOCWA San Juan Ocean Outfall: Order No. R9-2012-0012 (NPDES No. CA0107417); and  
(c) south Orange County MS4s: Order No. R9-2013-0001, (NPDES No. CAS0109266)

Orange County Flood Control District, and the cities of Aliso Viejo, Dana Point, Laguna Beach, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest, Mission Viejo, Rancho Santa Margarita, San Clemente and San Juan Capistrano (copermittees for discharges from the south Orange County MS4s).

The Executive Officer or the San Diego Water Board may approve future revisions to the Unified Program by updating this letter directive, provided that the Unified Program, as revised, will continue to meet the requirements of State law, including the California Ocean Plan, for beach water quality monitoring and related public notification and reporting requirements. Any future revisions requested by affected permittees or interested parties, or as deemed necessary and/or appropriate by the Executive Officer, will be subject to a 30 (thirty) day public comment period and request for hearing before the San Diego Water Board.

Under Water Code section 13389, issuance of this Water Code section 13383 letter directive is exempt from the provisions of the California Environmental Quality Act (Public Resources Code sections 21100-21177).

Any person aggrieved by this action of the San Diego Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

Ordered by James G. Smith, AEO   
for DAVID W. GIBSON  
Executive Officer

DATE: December 5, 2014

DWG:jgs:jch:bwj

Attachments:

1. Mailing List
2. "Workgroup Recommendation for a Unified Beach Water Quality Monitoring and Assessment Program in South Orange County"

Tech Staff Info & Use	
Place ID	257590
Place ID	257592
Place ID	658018

South Orange County Wastewater Authority  
 South Orange County MS4 Copermittees

- 3 -

## ATTACHMENT 1

## Mailing List

**Addressees (Affected Permittees)**

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South Orange County Wastewater Authority  
South Orange County MS4 Copermittees

- 4 -

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- 5 -

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SDRWQCB, Email list: Orange County MS4 Permit

SWRCB Email list: Beach Water Quality Workgroup  
– Southern California