[redacted]

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Feb. 4, 2019

Acting EPA Administrator Andrew Wheeler ("EPA") — Enforcing Entity
1200 Pennsylvania Ave., NW, Mail Code 1101A
Washington, DC 20460

Vice-Chair Henry Abarbanel — Enforcing Entity
San Diego Regional Water Quality Control Board ("RWQCB")
2375 Northside Drive, Suite 100
San Diego, CA 92108-2700
Attn: David Becker; Laurie Walsh

Chair Felicia Marcus — Enforcing Entity
State Water Resources Control Board ("SWRCB")
1001 I Street, 24th Floor
Sacramento, CA 95814

Chair Dayna Bochco — Enforcing Entity
California Coastal Commission ("CCC")
45 Fremont St #1900
San Francisco, CA 94105

Regional EOA Administrator Mike Stoker — EPA Regional Office
US EPA Pacific Southwest, Region 9 ("EPA9")
75 Hawthorne St.
San Francisco, CA 94105

Acting U.S. Attorney General Matthew Whitaker — US Atty. General
950 Pennsylvania Ave., NW
Washington, DC 20530

Mayor Toni Iseman — Violator (accepts/discharges)
City of Laguna Beach ("City")
505 Forest Ave.
Laguna Beach, CA 92651

City Manager John Pietig, and Director of Public Works Shohreh Dupuis, City of Laguna Beach — Violator (accepts/discharges)
505 Forest Ave.
Laguna Beach, CA 92651

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Director of Water Quality David Shissler City of Laguna Beach ("City") 505 Forest Ave. Laguna Beach, CA 92651	Violator (accepts/discharges)
Director Laurie Berman California Department of Transportation ("CalTrans") 1120 N Street, MS 49 Sacramento, CA 95814	Violator (accepts/discharges)
President Jerry Hayden and/or officers in charge, and General Manager Nikki Roknifard Three Arch Bay Association ("TABA") 5 Bay Drive Laguna Beach, CA 92651	Violator (created unstable fill)
Directors H. Rhoads Martin, Gary Rubel, Alan Anderson, Tim Hamchuk, and/or director(s) in charge Three Arch Bay Community Services District ("TABCSD") 5 Bay Drive Laguna Beach, CA 92651	Violator (unpermitted basin)
Personal privacy ex. (b)(6) Personal privacy ex. (b)(6) Personal privacy ex. (b)(6)	Refuses to stabilize old fill (adjacent to a water tank)
Personal privacy ex. (b)(6) Personal privacy ex. (b)(6) Personal privacy ex. (b)(6)	Refuses to stabilize old fill (has an infinity pool)
Personal privacy ex. (b)(6) Personal privacy ex. (b)(6) Personal privacy ex. (b)(6)	Unpermitted basin on land
Personal privacy ex. (b)(6) Personal privacy ex. (b)(6) Personal privacy ex. (b)(6)	Unpermitted basin on land
Personal privacy ex. (b)(6) Personal privacy ex. (b)(6) Personal privacy ex. (b)(6)	Refuses to install controls
Personal privacy ex. (b)(6) Personal privacy ex. (b)(6) Personal privacy ex. (b)(6) Personal privacy ex. (b)(6)	Refuses to install controls

[redacted] Violator (operates "basin")

[redacted] Violator (operates "basin")

Re: **60 DAY NOTICE, AND SUPPLEMENT TO THE 5/7/18 60 DAY NOTICE, OF VIOLATIONS OF THE CLEAN WATER ACT WITH DATES OF VIOLATIONS OVER THE LAST 5+ YEARS; AND 60 DAY NOTICE OF INTENT TO FILE SUIT** [33 U.S.C. Sec. 1365]

This notice involves the ***ongoing*** mud, silt, sediment, debris and/or other pollutants that:

(1) violate the Clean Water Act because these pollutants are being discharged from a point source into the ocean by a violator(s) [who does **not** have a NPDES permit] during: (i) storm days; and (ii) non-storm days on which these pollutants are in sufficient amounts to be measured in the runoff water [e.g. by a Secchi disk; by visual observation], but which are *prohibited* by the Clean Water Act and/or nuisance laws of the State of California; and/or

(2) exceed narrative [e.g. discoloration] and/or numeric [e.g. a NTU limit] standards in an applicable NPDES permit(s) by a lower-elevation violator(s) [who **has** a NPDES permit] because the pollutants are being discharged from a point source into the ocean during: (i) storm days and (ii) non-storm days **after** these pollutants in runoff water are deemed to be *accepted* by the lower-elevation NPDES permit holder(s), but which are: (A) ***not being reduced*** to the Maximum Extent Practicable (MEP) by the lower-elevation permit holder(s) as required by applicable NPDES permit(s); and/or (B) ***not being challenged, controlled and/or eliminated*** by lower-elevation NPDES permit holder(s) under the "legal authority" requirements in applicable NPDES permit(s).

Dear Acting EPA Administrator, agencies, violators and others named above:

I am the person giving notice with my mailing address and other information noted above; and I make the following statements pursuant to 40 C.F.R. Sec. 135 and the Clean Water Act ("CWA").

I incorporate the information in my 5/7/18 "60 day" notice under the CWA which most of the above have already received, but no one has taken any steps to resolve the ongoing pollution.

I own property at [redacted]. I enjoy recreational and other activities (e.g. SCUBA, free diving, swimming, exploring, photography) in or near the Pacific Ocean that are being adversely affected by pollutant discharges noted herein. The nearest public beach to me is 1000 Steps Beach; it is only a few blocks away to the north. I can move up and down the coast from 1000 Steps Beach on a surf mat that I designed and had made for me. The areas that I can access and enjoy on a regular basis from 1000 Steps Beach include the tide pools, rocks, sand, beach, waves and waters seaward of the mean high tide line abutting the Three Arch Bay subdivision area to the south all the way to the Table Rock beach area to the north.

Over the last five years, there were and continue to be ongoing mud, silt, sediment, debris and other pollutants being discharged into the waters of the United States on both storm and non-storm days by both NPDES permit holders and by non-permit holders. These pollutant discharges into the ocean usually occur at the 7th St. drain near the large hospital in the South Laguna area of the City which is a point source. However, there are several other point sources to the south of the 7th St. drain that can carry some pollutants into the ocean (e.g. the 11th St. drain; the 9th St. drain; and the 8th St. drain) but, during heavy rains, those drains allow some runoff to continue north to the last drain, the 7th St. drain, which can get blocked or obstructed (e.g. as it did on Dec. 6, 2018) and then cause serious flooding on the public street SCH, which is a pubic nuisance per se. All drains start with an opening by or in the curb on the east side of the South Coast Highway ("SCH" aka Pacific Coast Highway or PCH). The runoff then goes west under SCH by pipes and/or other means; and it then exits onto the beach sand or rocks from a pipe or, for the 7th St. drain, a man-made tunnel with a metal bar gate across the opening that appears to be west of CalTrans' right-of-way for the SCH. Runoff water containing these pollutants (from storm events and/or non-storm events) enters into one or more of the drains and exits onto the beach sand or rocks (e.g. via a piping system); and then goes into the ocean by going through the sand and/or by flowing across the sand or rocks. It appears the City of Laguna Beach ("City") and/or Cal. Dept. of Transportation ("CalTrans") have management and/or control over all the drains, but they are not taking sufficient steps to challenge, control, eliminate and/or prohibit these discharges as required by their respective NPDES permits.

To date, arguments being made by Three Arch Bay Association, a private homeowner association ("TABA"); by Three Arch Bay District, a California Community Services District ("TABCSD" aka Three Arch Bay Community Services District); and/or by its agents or contractors (e.g. [redacted]), are that any "sand" in the runoff water replenishes the beach sand, but that ignores that these pollutants consist mostly of a slick, sticky, clinging, fine mud and/or sediment and can include grease, oil and/or debris. Most of the pollutants are not similar to the existing beach sand at 1000 Steps beach or Table Rock, and thus do not "replenish" that beach sand.

Many of the pollutants being discharged were created by the initial acts and/or inaction of TABA, TABCSD and/or a few property owners in the Three Arch Bay subdivision (e.g. the owners of 50 Vista del Sol by the water tank, and of 96 Vista del Sol with the infinity swimming pool).

In about the 1940s and at other times, while grading and/or improving Vista del Sol street and/or the ultimate location of a water tank (now owned by the South Coast Water District) in the Three Arch Bay subdivision, TABA and/or its agents or contractors removed and then dumped mud, soil, sand, rocks, sediment and/or other materials into a ravine known as the Virginia or System 6 ravine. Those materials were and still are sitting mostly upon private property known as [redacted] Those materials have never been properly stabilized or compacted so that those materials easily erode whenever runoff water passes over and/or through them. TABA and its agents and contractors conducted these operations prior to when TABCSD was formed in 1957.

Later, by acts and/or inaction of TABA and/or TABCSD, and/or its agents or contractors and/or certain property owners (e.g. the owners of [redacted]), an ***unpermitted*** debris and sediment collection system (including a large concrete structure and various piping) was designed, funded, constructed and/or maintained since about 2010 to the present. That debris and sediment

collection system is located on 31 N. Vista de Catalina (in the Virginia or System 6 ravine), starts above the top of Vista Linda street in the Three Arch Bay subdivision, and extends down to a concrete energy-reducing structure located just behind my property on Virginia Way. The 2010 debris and sediment collection system enlarged the existing drain pipe system from about 10 inches in diameter to about 24 inches in diameter. The 2010 debris and sediment collection system receives source(s) of non-storm day runoff water (e.g. from the water tank; from fire hydrants; from swimming pools) which picks up non-stabilized mud, soil, sand, rocks, sediment and other materials (and sends those materials down the hill, across my property and into the ocean).

Once the pollutants leave the Three Arch Bay subdivision, they are collected, retained and redirected by the subsequent acts and/or inaction on or near Virginia Way by the joint-operation of a runoff collection and redistribution sediment basin/funnel system controlled and/or managed by [redacted] That system was created by the predecessors-in-title to the [redacted] and [redacted] (e.g. by building retaining-wall "dams" of 10 to 14 feet in height without weep-holes; by elevating land from its original elevation). That system is still jointly-operated by [redacted] who continue to refuse to correct the design and/or construction flaws to that basin/funnel system and/or mitigate the problem(s) on their own land or on land which they control to the middle of the street (e.g. by removing asphalt and a few concrete blocks of the retaining wall on their land). Because of the dams, the runoff goes into the loose fill (10+ feet deep) under Virginia Way and fills up that space with water. Because of the undersized basin/funnel piping, the runoff creates a pond on Virginia Way and floods other properties including my property. [redacted] as the present owners are responsible for the ongoing nuisances caused by their predecessors in title; see Cal. Civil Code Secs. 3479 and 3483.

After those pollutants leave the [redacted] properties (and/or leave other nearby properties when some of the pollutants are forced onto those other properties because of the way the sediment basin/funnel system operates), all of the pollutants are dumped onto the east side of SCH (aka PCH) roadway due to the down-hill flow of the runoff water toward the ocean.

Once the pollutants are on SCH, the pollutants are carried by runoff water (e.g. during non-storm days and during storm days) to the north toward the hospital at 7th St. Along the way, there are several drains on the east side of SCH that can and sometimes do admit the runoff water into one or more pipe system(s) that directs the untreated runoff water toward the ocean. If the runoff water is not completely collected by these drains and pipe systems, the runoff water and the pollutants that it carries reaches the 7th St. drain on the east side of SCH by the hospital (which is a low point of SCH but which is sometimes obstructed). Once in the 7th St. drain, the runoff water and the pollutants that it carries go to the ocean in an untreated condition by a pipe system or water tower (e.g. a vertical drop of water onto a hard surface to reduce the energy in the water) and then out of a man-made tunnel (with a metal bar gate at the entrance) that exits onto the beach near Table Rock.

In some situations (e.g. for the 2010 concrete sediment "basin" at the top of Vista Linda), TABA and/or TABCSD did not obtain the proper permits with respect to new construction of storm water facilities (e.g. from CCC, SWRCB, and/or the City). There has never been enough testing for pollutant discharges in the runoff, so pollutants are not quantified. All of the pollutants ultimately go into the ocean except for pollutants that precipitate out of the runoff onto Virginia Way and then

are cleaned up off of that street. The property owners in the Three Arch Bay subdivision have refused to install proper erosion control measures on their own lands. TABA and/or TABCSD have refused to install proper erosion control measures in the Three Arch Bay subdivision.

In May, 2006, TABCSD stipulated in state court that it was "legally responsible for all storm water drainage and storm water facilities" in the Three Arch Bay subdivision. In Dec. 2006 (as was later learned), TABCSD told owners [Personal privacy ex. (b)(6) [redacted]] that TABCSD had "***the right, but <u>not</u> the obligation***, to construct and maintain storm water facilities" in the Three Arch Bay subdivision; <u>and</u> that TABCSD could "extort" funds from private owner(s) to force them to "pay" for new storm water facilities located on the land(s) of those owner(s) [i.e. by *withholding* TABCSD's approval of construction plans for their new home, which would then *delay* TABA's approval <u>and</u> the City's Design Review Board's approval of those same construction plans].

TABA, TABCSD, the owners of the identified properties in the Three Arch Bay subdivision (for which some may be listed "for sale", or may have new owners), [Personal privacy ex. (b)(6) [redacted]] are all "persons" as defined under the CWA, but **<u>none</u>** of them have a National Pollutant Discharge Elimination System ("NPDES") permit and/or municipal separate storm sewer system ("MS4") permit. As a result, each of them is absolutely prohibited from discharging any pollutants into the ocean from a point source in any amount under the CWA (e.g. even if they don't create the pollution but instead collect and redirect the runoff water which does contain pollutants that ultimately go into the ocean; <u>and</u> even if the point source is not located on their property).

Furthermore, each of them has *failed* to: (i) maintain property which they own, manage or control in a condition so as to not cause a nuisance to others (e.g. Cal. Civil Code Sec. 1714); **<u>and/or</u>** (ii) install and maintain enough erosion control measures so that pollutants are not taken off the land [which they own, manage or control] in the runoff water and sent into the ocean.

<u>City of Laguna Beach ("City")</u>

The City is subject to a NPDES and/or MS4 permit issued by the RWQCB in about 2013 as one of the "Orange County Copermittees" with some amendments thereafter [e.g. see pages 1 and 2 of that 398 page permit; Order No. R9-2013-0001 as amended; NPDES No. CAS0109266].

That 2013 (and current) permit contains narrative and numeric standards. For example, the City must take action, by way of storm water action levels {SALs}, when the turbidity (e.g. cloudiness) in the storm water runoff discharge exceeds 126 NTU {Nephelometric Turbidity Units} [2.a., pg. 48 of the 398 permit], but the City has failed to take proper action even though it and its agents (e.g. City Attorney Phil Kohn) were aware of the excessively turbid pollutant discharges for decades.

The 2013 (and current) permit requires that the City "must establish, maintain, and enforce adequate legal authority within its jurisdiction to control pollutant discharges into and from its MS4 through statute, ordinance, permit, contract, order or similar means" [1.a., pg. 87 of the 398 page permit]. The City is violating this requirement because the discharges are created, collected, retained and/or redirected inside the City's limits, and conveyed by the City's separate storm water system, but the City is ignoring and/or failing to stop discharges by itself and/or by TABA,

TABCSD, property owners in the Three Arch Bay subdivision, [redacted], and/or CalTrans on storm days (e.g. rain over 0.5 inch per day) and/or non-storm days (e.g. when flushing hydrants).

The 2013 (and current) permit requires the City's legal authority "must, at a minimum, authorize the Copermittee to .. prohibit and eliminate all illicit discharges and connections to its MS4" [1.a.(1), pg. 87 of the 398 page permit]. The City is violating this requirement because these illicit discharges are being discharged onto South Coast Highway, and then they flow north to the Drains where they are directed into the ocean, but the City is ignoring and/or failing to stop the "illicit discharges" by itself and/or by TABA, TABCSD, property owners in the Three Arch Bay subdivision, [redacted] and/or CalTrans on storm days and/or non-storm days.

The 2013 (and current) permit requires the City's legal authority "must, at a minimum, authorize the Copermittee to .. control the discharge of spills, dumping, or disposal of materials other than storm water into its MS4" [1.a.(3), pg. 87 of the 398 page permit]. The City is violating this requirement because the storm water contains mud, sand, sediment and other debris materials in levels which cause discoloration and/or turbidity and that polluted storm water is being discharged onto South Coast Highway, and then it flows north to the drains where it is directed into the ocean, but the City is ignoring and/or failing to stop the discharge, dumping and/or disposal of those materials in the storm water by itself and/or by TABA, TABCSD, property owners in the Three Arch Bay subdivsion, [redacted] and/or CalTrans on storm days.

The 2013 (and current) permit requires the City's legal authority "must, at a minimum, authorize the Copermittee to .. control, by coordinating and cooperating with other owners of the MS4 such as CalTrans .. the contribution of pollutants from their portion of the MS4 to the portion of the MS4 within the Copermittee's jurisdiction" [1.a.(5), pg. 87 of the 398 page permit]. The City is violating this requirement because the storm water contains mud, sand, sediment and other debris materials in levels which cause discoloration and/or turbidity and that polluted storm water is being discharged onto South Coast Highway, and then it flows north to the drains where it is directed into the ocean, but the City is ignoring and/or failing to control, coordinate and/or cooperate with CalTrans as to the ongoing pollutant discharges by TABA, TABCSD, property owners in the Three Arch Bay subdivision, [redacted], and/or CalTrans on storm days and/or non-storm days (which CalTrans has known about since around 2004 onward).

The 2013 (and current) permit requires the City's legal authority "must, at a minimum, authorize the Copermittee to .. require compliance with conditions in its statutes, ordinances, permits, contracts, orders, or similar means to hold dischargers to its MS4 accountable for their contributions of pollutants and flows" [1.a.(6), pg. 88 of the 398 page permit]. The City is violating this requirement because the storm water contains mud, sand, sediment and other debris materials in levels which cause discoloration and/or turbidity and that polluted storm water is being discharged onto South Coast Highway, and then it flows north to the drains where it is directed into the ocean, but the City is ignoring and/or failing to "require compliance" by TABA, TABCSD, property owners in the Three Arch Bay subdivision, [redacted], and/or CalTrans on storm and/or non-storm days (which the City has known about since around 2001 onward).

The 2013 (and current) permit requires the City's legal authority "must, at a minimum, authorize

the Copermittee to .. require the use of BMPs {best management practices} to prevent or reduce the discharge of pollutants in storm water from its MS4 to the MEP {maximum extent practicable}" [1.a.(7), pg. 88 of the 398 page permit]. The City is violating this requirement because the storm water contains mud, sand, sediment and other debris materials in levels which cause discoloration and/or turbidity and that polluted storm water is being discharged onto South Coast Highway, and then it flows north to the drains where it is directed into the ocean, but the City is ignoring and/or failing to require the use of BMPs to prevent or reduce pollutant discharges in the storm water from its MS4 to the MEP regarding the discharges by itself and/or by TABA, TABCSD, property owners in the Three Arch Bay subdivision, [redacted], and/or CalTrans on storm days.

The 2013 (and current) permit requires the City's legal authority "must, at a minimum, authorize the Copermittee to .. require documentation of the effectiveness of the BMPs implemented to prevent or reduce the discharge of pollutants in storm water from its MS4 to the MEP" [1.a.(8), pg. 88 of the 398 page permit]. The City is violating this requirement because the storm water contains mud, sand, sediment and other debris materials in levels which cause discoloration and/or turbidity and that polluted storm water is being discharged onto South Coast Highway, and then it flows north to the Drains where it is directed into the ocean, but the City is ignoring and/or failing to require the necessary documentation from itself and/or from TABA, TABCSD, property owners in the Three Arch Bay subdivision, [redacted], and/or CalTrans on storm days.

The 2013 (and current) permit requires the City's legal authority "must, at a minimum, authorize the Copermittee to .. utilize enforcement mechanisms to require compliance with its statutes, ordinances, permits, contracts, orders, or similar means" [1.a.(9), pg. 88 of the 398 page permit]. The City is violating this requirement because the storm water contains mud, sand, sediment and other debris materials in levels which cause discoloration and/or turbidity and that polluted storm water is being discharged onto South Coast Highway, and then it flows north to the Drains where it is directed into the ocean, but the City is ignoring and/or failing to "utilize enforcement mechanisms to require compliance" by itself and/or by TABA, TABCSD, property owners in the Three Arch Bay subdivision, [redacted], and/or CalTrans on storm days and/or non-storm days.

The 2013 (and current) permit requires the City's legal authority "must, at a minimum, authorize the Copermittee to .. carry out all inspections, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with its statutes, ordinances, permits, contracts, orders, or similar means and with the requirements of this Order" [1.a.(10), pg. 88 of the 398 page permit). The City is violating this requirement because the storm water contains mud, sand, sediment and other debris materials in levels which cause discoloration and/or turbidity and that polluted storm water is being discharged onto South Coast Highway, and then it flows north to the drains where it is directed into the ocean, but the City is ignoring and/or failing to carry out all necessary "inspections, surveillance, and monitoring procedures" as to the ongoing pollutant discharges from itself and/or from TABA, TABCSD, property owners in the Three Arch Bay subdivision, [redacted] and/or CalTrans on storm days and/or non-storm days.

Since about 2001 or earlier, the City has known about these pollutant discharges [e.g. from a state court lawsuit TABCSD v. City of Laguna Beach, Orange County Superior Court Case No. 01CC15035 consolidated, in which the City was named as a defendant and/or cross-defendant], but

the City has done nothing to stop, control, treat or mitigate the ongoing polluted discharges.

Furthermore, at all times, the City has *failed* to: (i) maintain property which it owns, manages or controls in a condition so as to not cause a nuisance to others (e.g. Cal. Civil Code Sec. 1714); **and/or** (ii) install and maintain enough erosion control measures so that pollutants are not taken off the land [which it owns, manages or controls] in the runoff water and sent into the ocean.

California Department of Transportation ("CalTrans")

CalTrans is subject to a NPDES and/or MS4 permit issued by the SWRCB in about 2012 with some amendments thereafter [e.g. Order 2012-0011-DWQ as amended; NPDES No. CAS000003].

The 2012 (and current) permit prohibits discharges of storm water "containing pollutants that have not been reduced to the Maximum Extent Practicable (MEP)" [A.1, pg. 21 of that 306 page permit]; prohibits the "discharge of material other than storm water, or discharge that is not composed entirely of storm water, to waters of the" US [A.3, pg. 22 of the 306 page permit]; **and** prohibits the "discharge of sand, silt, clay, or other earthen materials from any activity .. which cause .. tubidity, or discoloration in waters of the Unites States or which unreasonably affect or threaten to affect beneficial uses of such waters" [A.8, pg. 22 of the 306 page permit]. CalTrans has ignored and/or failed to "prohibit" such discharges off of its South Coast Highway, and/or from TABA, TABCSD, property owners in the Three Arch Bay subdivision, [redacted] onto its South Coast Highway, on storm days (e.g. rainfall in excess of 0.5 inch per day) and/or non-storm days (e.g. when flushing fire hydrants or water tanks).

The 2012 (and current) permit requires CalTrans to "establish, maintain, and certify that it has adequate legal authority through statute, permit, contract or other means to control discharges to and from the Department's properties, facilities and activities" [2.b.(2), pg. 28 of the 306 page permit]. CalTrans has ignored and/or failed to "control" such discharges off of its South Coast Highway, and/or from TABA, TABCSD, property owners in the Three Arch Bay subdivision, [redacted] onto its South Coast Highway, on storm days and/or non-storm days.

Since about 2004 or earlier, CalTrans has known about these pollutant discharges [e.g. from a state court lawsuit TABCSD v. City of Laguna Beach, Orange County Superior Court Case No. 01CC15035 consolidated, in which CalTrans was named as a defendant and/or cross-defendant], but CalTrans has done nothing to stop, control, treat or mitigate the ongoing polluted discharges.

Furthermore, at all times, CalTrans has *failed* to: (i) maintain property which it owns, manages or controls in a condition so as to not cause a nuisance to others (e.g. Cal. Civil Code Sec. 1714); **and/or** (ii) install and maintain enough erosion control measures so that pollutants are not taken off the land [which it owns, manages or controls] in the runoff water and sent into the ocean.

Three Arch Bay subdivision, its entities, and its property owners

The Three Arch Bay subdivision consists of about 29 acres. It includes undeveloped land and many homes in a gated community with restricted access. It is some times called Three Arches Bay.

TABCSD is a community services district [i.e. a public entity] formed in June 1957 under Cal. Gov.Code Secs. 61000 et seq. The powers of TABCSD include construction activities related to any "street", "culverts" or "drains" in the subdivision, but only if approval is obtained from Orange County. These powers do not include construction of concrete "funnels" (that have open drains in the bottom), or sediment "basins" or "dams" (which have no drain or drains that can be closed). As a public entity, TABCSD has different rights and duties when compared to TABA.

According to reports filed with the Orange County Auditor-Controller, TABCSD "maintains the storm drain system and furnishes security services to the residents" of Three Arch Bay. However, TABCSD signed documents (i.e. in Dec. 2006 with property owners [redacted] who owned [redacted] at that time) which stated that TABCSD has *the right, but not the obligation, to construct and maintain storm water management systems*. However, according to the CCC (as part of Claude Brock's 2012 permit application #5-12-021 for a new residence to be built at [redacted] which [redacted] used to own), no CCC permit was ever obtained for the 2010 concrete sediment retaining "basin" (i.e. a funnel) at the top of Vista Linda and related piping.

TABA is a domestic non-profit organization [i.e. a private entity] incorporated in Calif. in 1936 with Corporate No. C0167060. TABA acts as homeowners association for the residents of Three Arch Bay, and it owns the private streets in the Three Arch Bay subdivision (e.g. Vista del Sol, Vista Linda, and North Vista de Catalina). In the 1940s and early 1950s (e.g. prior to when TABCSD was formed in June 1957), TABA graded, constructed, widened and/or improved various streets including Vista del Sol and other areas (e.g. near the water tank location).

Both TABCSD and TABA have built storm water facilities in the Three Arch Bay subdivision. For example, in 2010, TABA obtained permits from the SWRCB and/or others for new construction and/or improvements of storm water facilities near Vista del Sol, but it did not get any for the 2010 Vista Linda basin. As another example, in 2003, TABCSD obtained permits from the CCC and/or others for construction and/or improvements of storm water facilities near Vista del Sol. However, TABCSD and TABA periodically use misleading names on the permit applications that are not the proper names of those entities, such as "Three Arch Bay" or "3 Arch Bay Association".

As for pollutant discharges carried by runoff water (on storm and non-storm days) that goes onto my property (and ultimately into the ocean), the private property owners in the Three Arch Bay subdivision that cause pollutant discharges include but are not limited to the owners of: (a) [redacted] (b) [redacted] [with the unpermitted 2010 basin and related piping, owned by [redacted] now an LLC]; (d) [redacted]]; and (e) [redacted]].

Each of the entities (i.e. TABA and TABCSD) and property owners in Three Arch Bay subdivision, and/or their predecessor in title, have *failed* to: (i) maintain their property [which they own, manage or control] in a condition so as to not cause a nuisance to others (e.g. Cal. Civil Code Sec. 1714); **and/or** (ii) install and maintain enough erosion control measures so that pollutants are not taken off their land [which they own, manage or control] in runoff water and sent into the ocean.

Amount of water runoff required to create a pollutant discharge

On **storm** days, polluted discharges into the ocean can occur every time the Orange County rain gauge(s) No. 100 and/or No. 216 indicates that one half inch (0.5 inch) or more of rain has fallen per "day", and usually when there is more than 0.3 inch of rain after the ground has been saturated from rain on the day(s) before. The rain gauge measurements are taken at 8 am every day. Because of this, rain falling between 8 am and midnight on one day is part of total rainfall counted in the next day's measurement. Alternatively, since it is believed the CWA does not define when a "day" starts or ends, the 8 am rain gauge measurement could be the "end" of a 24 hour "day".

Pollutant discharges into the ocean from a point source appear to have occurred on the following storm days assuming a "day" ***starts*** at 12:01 am, but without knowing if rain was steady all day:

2012 - 7/12 or 7/13/12; 12/2 or 12/3/12; 12/23 or 12/24/12; **2013** – 5/5 or 5/6/13; 10/9 or 10/10/13 or both; **2014** – 2/27 or 2/28/14 or both; 2/29 or 3/1 or 3/2/14 or all three or just two; 12/2 or 12/3 or 12/4/14 or all three or just two; 12/11 or 12/12 or 12/13/14 or all three or just two; 12/16 or 12/17/14; **2015** – 1/10 or 1/11 or 1/12/15 or just two; 2/22 or 2/23/15; 7/18 or 7/19 or 7/20/15 or just two; 9/14 or 9/15/15; 11/26 or 11/27/15; **2016** – 1/5 or 1/6 or 1/7/16 or all three or just two; 3/5 or 3/6 or 3/7/16 or just two; 11/20 or 11/21/16; 11/26 or 11/27/16; 12/15 or 12/16/16; 12/21 or 12/22 or 12/23 or 12/24/16 or all four or just three; **2017** – 1/12 or 1/13/17; 1/18 or 1/19 or 1/20 or 1/21/17 or all four or just three; 1/22 or 1/23/17 or both; 2/6 or 2/7/17; 2/17 or 2/18/17 or both; **2018** - 1/8 or 1/9 or 1/10/18 or all three or just two; 3/10/18 or 3/11/18; 12/6/18; **2019** – TBD.

Alternatively, pollutant discharges into the ocean from a point source appear to have occurred on these storm days assuming the 24 hours of the "day" ***ended*** at 8:00 am on the date noted below:

2012 - 7/13/12; 12/3/12; 12/24/12; **2013** – 5/6/13; 10/10/13; **2014** - 2/28/14; 3/1/14; 3/2/14; 12/3/14; 12/4/14; 12/12/14; 12/13/14; 12/17/14; **2015** - 1/12/15; 2/23/15; 7/19/15; 7/20/15; 9/15/15; 11/27/15; **2016** - 1/6/16; 1/7/16; 3/6/16; 3/7/16; 11/21/16; 11/27/16; 12/16/16; 12/22/16; 12/23/16; 12/24/16; **2017** - 1/13/17; 1/19/17; 1/20/17; 1/21/17; 1/23/17; 2/7/17; 2/18/17; **2018** - 1/9/18; 1/10/18; 3/11/18; 12/6/18; **2019** – to be determined ("TBD").

On **non-storm** days, polluted discharges into the ocean occur when TABCSD, TABA and/or others flush fire hydrants, drain swimming pools, do construction (e.g. concrete wash out), and/or engage in activities in which a large amount of water is released in the Three Arch Bay subdivision above my property. Pollutant discharges into the ocean from a point source have occurred on the following non-storm days in the last 5 years assuming that a "day" starts at midnight: summer 2015 (concrete wash out); 6/27 or 6/28/17 (flushing fire hydrants); and other times TBD.

Sources of pollutants

The pollutants in the runoff water (on storm and non-storm days) come from a variety of sources.

One of the pollutant sources is the unstable fill (aka loose soil) that was created long ago (e.g. in the 1940s) and never properly compacted and/or managed by sufficient erosion controls. That loose soil was dumped into the System 6 (Virginia) ravine above my property around 1947 and at a few other times. That loose soil looks to be 6 to 8+ feet deep in aerial photographs. That loose soil came from the initial grading of the street Vista Del Sol (owned by TABA); Vista del Sol is mostly in the System 8 ravine, but touches the System 6 ravine near the water tank. TABA also did some

grading near the water tank (owned by South Coast Water District); the tank is near the intersection of the System 6 (Virginia), System 7 (Stonington), and System 8 (Vista del Sol) ravines.

The loose soil that TABA (and maybe owners when preparing their lots) dumped into the System 6 (Virginia) ravine is still sitting on the land in a non-stabilized condition on parts of [redacted] (near the water tank and believed to be owned by the [redacted] since 2007) and [redacted] (with an infinity pool and believed to be owned by [redacted] since 2013). The private property owners (and past owners) have apparently refused to install erosion controls and/or to force others (e.g. TABA who originally caused the loose soil, or TABCSD who claims to be "legally responsible") to stabilize the loose soil (e.g. with sufficient erosion controls).

One of the pollutant sources is erosion due to the periodic use of goats. During the dry season, TABCSD and/or TABA use goats for fire control. The hooves of the goats break the soil cap on the steep slopes of the easily-eroded hillsides. The goats are allowed to stay on the land too long, the land is overgrazed, and/or there are not enough BMP, BCT, BPT and/or BAT control methods in place to stabilize the loosened soil caused by the goats or other factors (which then quickly erodes when it comes in contact with runoff water and ultimately goes into the ocean).

One of the pollutant sources is construction. At various times, TABCSD, TABA and/or individual homeowners in the Three Arch Bay subdivision engage in construction projects on steep hillsides without obtaining the proper permits, without creating a proper SWPPP, and/or without using enough proper erosion control methods during and/or after construction (e.g. via BMP, BCT, BPT and/or BAT). There is insufficient monitoring of construction projects for "inadvertent" discharges from the Three Arch Bay subdivision. There are not enough BMP, BCT, BPT and/or BAT control methods being used in the Three Arch Bay subdivision to control erosion on non-storm and/or storm days. As a result, storm pollutants (e.g. eroded sediment, sand and mud) and non-storm pollutants (e.g. concrete washout water) routinely [redacted] into the ocean.

One of the pollutant sources is the lack of enough BMP, BCT, BPT and/or BAT control methods for erosion control on the steepest parts of the hillsides in the System 6 ([redacted]) ravine in the Three Arch Bay subdivision. In other words, there are not enough fabric rolls, straw wattles, sandbag dams, overflow/underflow weirs, and/or sediment separators (active or passive) on the steep parts of that subdivision. Instead, there are some sediment, debris and/or desilting basins (which are actually funnels) that allow the "fine" (rather than "coarse") eroded materials to pass through and continue to the ocean (e.g. on storm days). When fire hydrants, hot tubs, water tanks, or swimming pools are flushed (e.g. on non-storm days), that runoff water picks up eroded materials (e.g. on the hills or streets, or in pipes) and discharges those pollutants into the ocean. When construction is not controlled, debris is flushed into the ocean (e.g. concrete wash out).

Actions requested

The enforcing entity(ies) should stop all of the violator(s) who ***do not have*** NPDES permit(s) from discharging any pollutants whatsoever into the ocean from a point source. Those violators should not be discharging any pollutants into the ocean since the CWA strictly prohibits any pollutants. It

doesn't matter who originally created the particular pollutants or from which point source the pollutants exit when going into the ocean. Those violators include TABA, TABCSD, the property owners in the Three Arch Bay subdivision named herein, [redacted], and [redacted].

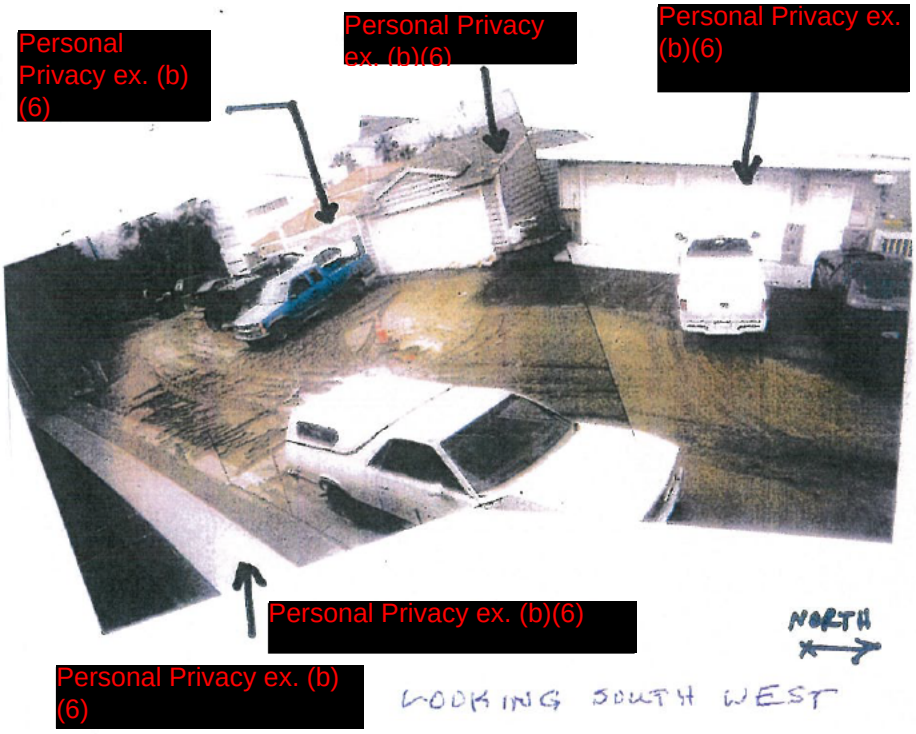
The enforcing entity(ies) should stop the violator(s) who ***do have*** NPDES permit(s) from accepting and then discharging the untreated pollutants into the ocean. Those violators should be fully complying with their respective NPDES permits (e.g. the "legal authority" requirements), but they are not. Those violators include the City of Laguna Beach and CalTrans.

If the enforcing entity(ies) does not take action within the next 60 days, I will file a citizen's lawsuit against the violators, and will seek the maximum civil penalties for "violations" per "day" per "violator" payable to the US Treasury and other damages allowed by law. 33 U.S.C. Secs. 1361 et seq; Natural Resources Defense Council v. Los Angeles, 725 F.3d 1194, 1197-1210 (9th Cir. 2013).

[redacted]

[redacted]

Owner of the duplex at [redacted]



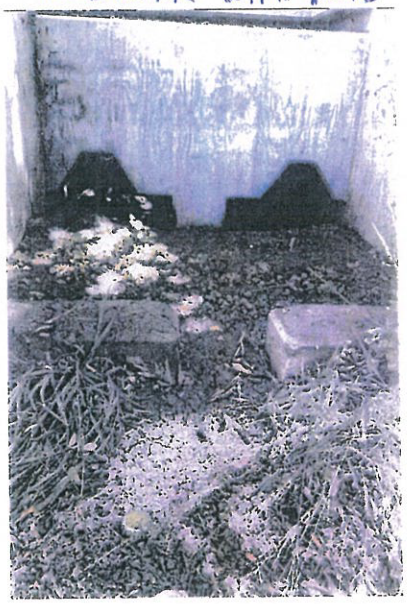
2010 BASIN

LOOSE SOIL 1947.

Personal [redacted] HOUSE ↑ PATH OF RUNOFF

ex. Privacy (b) (6)

REDUCER WITH MUD



2010 ENERGY - REDUCER

Personal Privacy ex. (b)

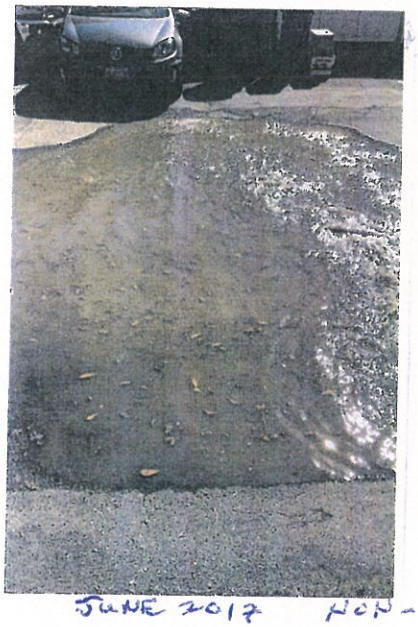
2014 LOOKING WEST

LOOKING SOUTHEAST

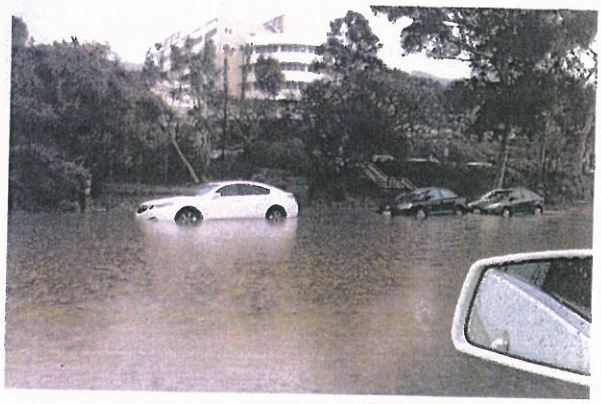
Personal Privacy ex. (b)(6)

WAY

2015 CONCRETE WASHOUT



JUNE 2017 NON-STORM DAY



2018 SCH