



July 21, 2020

VIA EMAIL

Ms. Laurie Walsh
California Regional Water Quality Control Board – San Diego Region
2375 Northside Drive, Suite 100
San Diego, California 92108-2700

RE: Escondido Neighbors United Request for Issuance of a Complaint for Administrative Civil Liabilities against KB Home for the Discharge of Wastes to Felicita Creek

Dear Ms. Walsh,

Escondido Neighbors United (ENU) is requesting an update response to our request for the California Regional Water Quality Control Board – San Diego Region (San Diego Water Board) to issue a Complaint for Administrative Civil Liability (ACL Complaint) against KB Homes for violations of the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Storm Water Permit) at the Oak Creek Development in Escondido, California (Site), and require effective mitigation for the portion of Felicita Creek that was damaged due to the violations.

As you are aware, during the 2019/2020 wet season ENU provided the San Diego Water Board with information of two separate occasions where during rain events, stormwater pollution control best management practices (BMPs) failed to prevent the discharge of wastes from the Site. These wastes were deposited in a portion of Felicita Creek.

In December 2019, ENU provided the City of Escondido and the San Diego Water Board with documentation of failures of the Site's BMPs. In response the City of Escondido conducted a site inspection on December 30, 2019 and issued a Notice of Violation and Corrective Action to KB Homes on the same day. Based on the failure of KB Homes to complete the corrective action, the City of Escondido issued a Stop Work Order on January 6, 2020.

On January 2, 2020, three inspectors from the San Diego Water Board conducted a Construction Storm Water General Permit compliance inspection of the Site. The inspectors found numerous areas of insufficient and/or failed BMPs that required corrective action.

Because of ENU's concerns for the water quality of Felicita Creek, the ENU issued a letter on January 26, 2020 to the San Diego Water Board requesting that they issue an ACL Complaint



against KB Homes. We have not heard any update on whether or not our request was accepted or denied.

The consequence of the lack of issuance of either a NOV or an ACL Complaint to KB Homes, is that KB Homes did not take sufficient actions to prevent a second series of violations during a rain event in March 2020. Once again ENU provided documentation of the violations to the City of Escondido and the San Diego Water Board. This violation occurred after the City of Escondido issued KB Homes a Notice of Violation and Stop Work Order, and required KB Homes to:

- Shore up erosion and sediment controls, as needed, especially directly adjacent/up slope of creek(s);
- Install effective perimeter controls along Hamilton Lane;
- Use only designated stabilized entrances (esp. along Hamilton);
- Check for downed/damaged silt fence beside creek alongside Felicita Rd; and
- Ensure proper installation of erosion and sediment control BMPs (trench in and stake rolls, ensure proper overlap, etc.).

On March 12, 2020, ENU submitted a link to photos and videos of the violations and once again requested that the San Diego Water Board issue an ACL Complaint against KB Homes. Bear in mind that this second series of violations occurred after, **we feel compelled to repeat after, the City of Escondido gave clear direction as to what actions KB Homes was to take to prevent additional damage to Felicita Creek, but before an NOV was issued by the San Diego Water Board.**

On March 27, 2020, based on the January 2, 2020 Site inspection, the San Diego Water Board issued an NOV to KB Homes.

Due to the actions needed to be taken to protect San Diego Water Board staff from being exposed and/or getting infected with the COVID-19 virus, it is understood that some delays of the actions taken by the San Diego Water Board will occur. ENU has not received any information regarding what, if any action, the San Diego Water Board has/will take against KB Homes. It is not known if this is due to delays due to COVID-19 adaptations, or if the San Diego Water Board has decided not to take further enforcement actions.

Therefore, ENU would like to receive a written update on how the San Diego Water Board has decided to address the violations. If the San Diego Water Board has decided not to take any



further action, ENU requests an explanation as to why it made that decision. The following information is additionally requested:

- Will the San Diego Water Board issue civil liabilities against KB homes?
- Did the San Diego Water Board conduct any Site inspections after the January 2, 2020 inspection to determine if the needed corrective actions were made?
- If such inspections were conducted please provide copies of the Site inspections.
- Why did it take almost three months after the January 2, 2020 Site inspection for the San Diego Water Board to issue the NOV to KB Homes?

Escondido Neighbors United looks forward to your prompt response. Please contact Ms. Laura Hunter at earthlover@sbcglobal.net for questions or more information.

Thank you for your consideration,

Escondido Neighbors United

cc.

Storm Water Unit, San Diego County, watersheds@sdcounty.ca.gov

Utilities, city of Escondido, cmckinney@escondido.org

Matt O'Malley, San Diego Coastkeeper, matt@sdcoastkeeper.org