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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ORANGE COUNTY COASTKEEPER, a
California non-profit corporation,

Plaintiff,

v.

CITY OF SAN JUAN CAPISTRANO, a
California municipal corporation;
BLENHEIM FACILITY MANAGEMENT,
LLC, a Delaware limited liability company,

Defendants.

Case No.: 8:17-cv-00956-JLS-DFM

**FIRST AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF AND
CIVIL PENALTIES**

DEMAND FOR JURY TRIAL

**(Federal Water Pollution Control
Act, 33 U.S.C. §§ 1251 *et seq.*)**

Orange County Coastkeeper (“Coastkeeper” or “Plaintiff”), by and through its
counsel, hereby alleges:

1 **I. PRELIMINARY STATEMENT**

2 1. This is a civil suit brought under the citizen suit enforcement provision of
3 the Federal Clean Water Act. 33 U.S.C. §§ 1251 *et seq.* This Court has subject matter
4 jurisdiction over the parties and this action because it arises under federal law. The events
5 giving rise to Plaintiff's action and the violations described in this Complaint occurred,
6 and continue to occur, within this judicial district. *See* 33 U.S.C. § 1365(a)(1).

7 2. This action arises out of the unlawful pollution of San Juan Creek caused by
8 Defendant City of San Juan Capistrano ("City") and Defendant Blenheim Facility
9 Management, LLC ("Blenheim") (collectively "Defendants"), the owners and/or
10 operators of the Rancho Mission Viejo Riding Park at San Juan Capistrano ("Riding
11 Park") and the adjacent "Arizona Crossing" that runs through San Juan Creek (the
12 "Creek"). The Riding Park is a venue for equestrian events that has the capacity to board
13 up to 1,100 horses. The Arizona Crossing is a manmade road that runs across San Juan
14 Creek, connecting the Riding Park to Reata Park on the other side of the Creek.

15 3. Defendants have operated the Riding Park and Arizona Crossing in violation
16 of the Clean Water Act by: failing to obtain permit coverage for the operation of a Large
17 or Medium Concentrated Animal Feeding Operation ("CAFO"); failing to obtain permit
18 coverage under the Industrial General Permit; failing to comply with the City of San Juan
19 Capistrano's municipal separate storm sewer system permit; failing to obtain permits
20 from the United States Army Corps of Engineers ("Army Corps") for dredge and fill
21 activities within Army Corps' jurisdiction; and failing to obtain water quality certification
22 from the State of California before disturbing San Juan Creek, its banks, and other onsite
23 federal waters.

24 4. Failure to obtain mandatory permits for activities at the sites in question
25 violates the Clean Water Act's prohibition on unpermitted discharges and unpermitted
26 disturbance of watercourses. These failures are demonstrated by Defendants' discharges
27 of horse manure and bedding, sediment, trash, fertilizers, rubberized horse footing, and
28 other "non-stormwater" into San Juan Creek and onsite federal waters; the discharge of

1 polluted storm water that comes into direct contact with hundreds of stabled horses
 2 directly into San Juan Creek; and heavy industrial repairs to the Arizona Crossing and the
 3 Creek's banks without mandatory federal or state required permits in an area designated
 4 as open space and preserved by a conservation easement.

5 5. The Clean Water Act enables non-profit organizations such as Orange
 6 County Coastkeeper to file lawsuits to enforce the Clean Water Act. 33 U.S.C. § 1365.

7 6. Based upon its investigation to date and discussions with Defendants,
 8 Coastkeeper alleges that Defendants are responsible for more than 9,130 individual
 9 violations of the Clean Water Act over 1,826 days. Defendants' acts and omissions have
 10 harmed, and continue to harm, both the mission of Plaintiff Orange County Coastkeeper
 11 and the interests of its members who use San Juan Creek, its surrounding areas, and
 12 Doheny State Beach, where the Creek meets the Pacific Ocean.

13 7. Plaintiff Coastkeeper seeks declaratory and injunctive relief, as well as civil
 14 penalties, to end the unlawful acts and omissions of Defendants that continue to cause
 15 irreparable damage to water quality. Plaintiff also seeks recovery of reasonable costs of
 16 suit, including attorney, witness, expert, and consultant fees, pursuant to Section 505(d)
 17 of the Clean Water Act, 33 U.S.C. § 1365(d).

18 19 **II. JURISDICTION AND VENUE**

20 8. This is a citizen enforcement action brought under the Federal Water
 21 Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, more commonly called the Clean Water
 22 Act ("Clean Water Act" or "Act"). *See* 33 U.S.C. § 1365. This Court has subject matter
 23 jurisdiction over the parties and this action pursuant to Section 505(a)(1) of the Clean
 24 Water Act, 33 U.S.C. § 1365(a)(1), and 28 U.S.C. §§ 1331 and 2201 (an action for
 25 declaratory and injunctive relief under the Constitution and laws of the United States).

26 9. Coastkeeper sent a letter by certified mail to Defendants City of San Juan
 27 Capistrano and Blenheim Facility Management, LLC on March 31, 2017 ("First Notice
 28 Letter"). In the First Notice Letter, Coastkeeper notified Defendants of their violations of

1 the Clean Water Act and of Coastkeeper's intention to file suit for such violations after
2 sixty (60) days as required by 40 C.F.R. § 135.2(a)(1) (Mar. 19, 1991). A copy of the
3 First Notice Letter is attached as Exhibit A and is incorporated herein by reference.

4 10. Coastkeeper sent Defendants a second notice letter on May 4, 2017
5 ("Second Notice Letter"). In the Second Notice Letter, Coastkeeper notified Defendants
6 of additional violations of the Clean Water Act, including the failure to obtain permit
7 coverage as a CAFO, and of Coastkeeper's intention to file suit for such violations after
8 sixty (60) days as required by 40 C.F.R. § 135.2(a)(1) (Mar. 19, 1991). A copy of the
9 Second Notice Letter is attached as Exhibit B and is incorporated here by reference.

10 11. The First Notice Letter and Second Notice Letter (collectively, "Notice
11 Letters") were also sent to the necessary state and federal regulatory agencies, as
12 identified on Exhibits A and B, and as required by Section 505(b) of the Clean Water
13 Act, 33 U.S.C. § 1365(b)(1)(A).

14 12. More than sixty (60) days have passed since the Notice Letters were sent to
15 Defendants and the regulatory agencies.

16 13. Coastkeeper is informed and believes that the federal or state agencies have
17 neither commenced nor are diligently prosecuting any action to redress the violations
18 alleged in the First Notice Letter and in this Amended Complaint. *See* 33 U.S.C. §
19 1365(b)(1)(B).

20 14. This action is not barred by any prior administrative penalty under Section
21 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g).

22 15. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because a
23 substantial part of the events or omissions giving rise to Coastkeeper's claims occurred in
24 this judicial district, and under 33 U.S.C. § 1365(c)(1) because the sources of the
25 violations described in this Amended Complaint are located within this judicial district.

26 16. Plaintiff seeks relief from Defendants' violations of the procedural and
27 substantive requirements of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).
28

1 **III. PARTIES**

2 **A. Orange County Coastkeeper**

3 17. Plaintiff Orange County Coastkeeper (“Coastkeeper” or “Plaintiff”) is a non-
4 profit public benefit corporation organized under the laws of the State of California.
5 Coastkeeper’s office is located at 3151 Airway Avenue, Suite F-110, Costa Mesa,
6 California 92626.

7 18. Coastkeeper has over 2,000 members who live and/or recreate in and around
8 Orange County, including at San Juan Creek, San Juan Creek Mouth, and Doheny State
9 Beach. Coastkeeper’s mission is to promote and restore water resources that are
10 drinkable, fishable, swimmable, and sustainable. To further our mission, Coastkeeper
11 actively seeks federal and state agency implementation of the Clean Water Act and,
12 where necessary, directly initiates enforcement actions on behalf of itself and our
13 members.

14 19. Coastkeeper is an established stakeholder focused on Orange County’s water
15 quality, as demonstrated by its status as the only Orange County environmental non-
16 governmental organization that negotiated the municipal separate storm sewer system
17 permit at issue in this case. Coastkeeper’s consistent dedication to the watershed is
18 further demonstrated by its substantive comments made on previous versions of that
19 permit on April 3, 2007, September 28, 2009, and September 14, 2012. Coastkeeper’s
20 longstanding interest in the region’s water quality was recognized by the State of
21 California when the state oversight agency for the permit, the California Regional Water
22 Quality Control Board, San Diego Region, (“Regional Board”) designated Coastkeeper as
23 an environmental stakeholder for meetings convened on July 1, 2014 at the City of San
24 Juan Capistrano Community Center to discuss the permit. The Regional Board further
25 designated Coastkeeper as an environmental stakeholder for state workshops on April 28,
26 2015, May 21, 2015, and June 30, 2015. Coastkeeper testified before the Regional Board
27 during the current permit’s three-day adoption hearing on April 10-11, 2013 and May 8,
28 2013, a public workshop on October 8, 2014, and the February 11, 2015 hearing that

1 amended the permit and enrolled San Juan Capistrano into it. As recently as May 8, 2017,
2 Coastkeeper sent a comment letter to the Regional Board on the terms of the permit's
3 implementation.

4 20. In addition, Coastkeeper's members use and enjoy San Juan Creek and its
5 tributaries to swim, birdwatch, picnic, fish, hike, wade, bike, horseback ride, and conduct
6 scientific study and research, and/or for aesthetic enjoyment in and around these waters.

7 21. Coastkeeper's members use and enjoy the coast near the San Juan Creek
8 Mouth and Doheny State Beach to sail, swim, boat, kayak, windsurf, birdwatch, picnic,
9 fish, paddle, standup paddleboard, surf, wade, and conduct scientific study and research,
10 and/or for aesthetic enjoyment in and around these waters.

11 22. Defendants' actions, individually, collectively, and in culmination with the
12 activities of other landowners adjacent to San Juan Creek, result in numerous injuries to
13 Coastkeeper's interests, such as: loss, destruction or damage to wetlands and waterways;
14 diminished aesthetic enjoyment; increased flooding; loss of open space and habitat for
15 wildlife, including wading birds and federally protected species like Southern California
16 Coast Steelhead; degraded water quality; and diminished quality of life.

17 23. Defendants' failure to comply with the procedural and substantive
18 requirements of the Clean Water Act negatively affects and impairs Coastkeeper's
19 members' use and enjoyment of these waters.

20 24. The interests of Coastkeeper's members have been, are being, and will
21 continue to be adversely affected by Defendants' failure to comply with the Clean Water
22 Act. Continuing the commission of the acts and omissions alleged in this Complaint will
23 irreparably harm Coastkeeper's members, for which harm they have no plain, speedy, or
24 adequate remedy at law. Coastkeeper's members will continue to be harmed until
25 Defendants bring their activities into compliance with the law.

26 25. The relief sought herein will redress the harms to Coastkeeper caused by
27 Defendants' activities.
28

B. The City of San Juan Capistrano

26. Defendant the City of San Juan Capistrano is a municipality incorporated under the laws of the State of California.

27. The City owns the Rancho Mission Viejo Riding Park at San Juan Capistrano, located at 27174 Ortega Highway, San Juan Capistrano, California 92675.

28. The City also owns and/or operates Reata Park located at 28632 Ortega Highway, San Juan Capistrano, California 92675.

29. The Riding Park and Reata Park are on opposite sides of San Juan Creek, connected by a manmade access way crossing through San Juan Creek (the “Arizona Crossing”). The City owns and/or operates the Arizona Crossing.

30. At all times relevant to this Complaint, the City has owned, and is legally responsible for, the Riding Park, Reata Park, and the Arizona Crossing.

C. Blenheim Facility Management, LLC

31. Defendant Blenheim Facility Management, LLC is an active Delaware limited liability company with its principal place of business located at 30753 La Pata Avenue, San Juan Capistrano, California 92675.

32. The name and address for the Registered Agent for Blenheim Facility Management, LLC is Rebecca Ross, located at 30753 La Pata Avenue, San Juan Capistrano, California 92675.

33. The address for Registered Agent is an invalid address, specifically unable to receive service of process.

34. The Entity Mailing Address for Blenheim is listed on the California Secretary of State’s website as: P.O. Box 639, San Juan Capistrano, California 92693.

35. Coastkeeper has engaged in communication with Melissa Brandes, Vice President of Operations and Marketing for Blenheim, regarding the contents and existence of the First Notice Letter.

1 36. Coastkeeper is also informed, and therefore believes, that the City and
2 Blenheim have proposed a joint defense agreement to this action as evidenced by Exhibit
3 C, a City Council agenda report set for consideration on June 6, 2017.

4 37. Coastkeeper believes, and therefore alleges that Blenheim received the
5 Notice Letters, and has actual notice of the substantive contents of the Notice Letters.
6

7 **IV. FACTUAL BACKGROUND**

8 **A. The Riding Park**

9 *Activities*

10 38. A map taken from Google Maps depicting the Riding Park and Arizona
11 Crossing is attached as Exhibit D to this Amended Complaint for the Court's reference.

12 39. On January 20, 2010, the City purchased the Riding Park located at 27174
13 Ortega Highway, including a parcel designated as the "Creek Open Space" parcel along
14 the northwest portion of the Riding Park that includes a portion of San Juan Creek and its
15 creek bank.

16 40. Blenheim has managed the Riding Park since 2005, and has been subject to
17 a management agreement with the City for all times relevant to this litigation.

18 41. Based upon information and belief, Coastkeeper alleges that Blenheim is
19 responsible for the day-to-day management of the Riding Park, including its maintenance
20 before, during, and after equestrian events, as well as outside of the equestrian season.

21 42. The Riding Park is comprised of approximately 60 acres, and is a multi-use
22 sports and exhibition facility that hosts equestrian events, soccer events, a rodeo, and
23 other community events.

24 43. The Riding Park provides stables, show and warm-up arenas, trailer, truck,
25 and RV parking, horse wash areas, temporary bathroom facilities, food trucks, and other
26 similar facilities common to equestrian events.

27 44. Coastkeeper is informed and believes, and thereon alleges, the Riding Park
28 is most commonly used for equestrian events.

1 45. Exhibit E is a copy of the Notice of Intent to Comply With the Conditional
2 Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego
3 Region (“NOI”) submitted by Defendants to the Regional Board.

4 46. The Regional Board did not approve Defendants’ NOI, but the NOI contains
5 information submitted by Defendants on the number of horses present at the Riding Park.

6 47. Exhibit F is a copy of an Excel spreadsheet that interprets the data contained
7 in the NOI attached as Exhibit E regarding the number of horses present at the Riding
8 Park during 2016.

9 48. Based upon information submitted by Defendants to the Regional Board and
10 Plaintiff’s own investigations, Coastkeeper is informed, believes, and thereon alleges that
11 during the 2016 calendar year, horses were present at the Riding Park on at least 127
12 days. Exhibits E-F.

13 49. Coastkeeper alleges that on 58 days in 2016, over 500 horses were fed or
14 maintained at the Riding Park. Exhibits E-F.

15 50. Based upon information submitted by Defendants to the Regional Board,
16 Plaintiff alleges that during the 2016 calendar year, there were 109 days where more than
17 150 horses were fed or maintained at the Riding Park. Exhibits E-F.

18 51. Based upon information submitted by Defendants to the Regional Board and
19 its own investigations, Plaintiff is informed, believes, and thereon alleges that during the
20 2016 calendar year, there were a total of 8,354 horses at the Riding Park. Exhibits E-F.

21 52. Coastkeeper is informed and believes, and thereon alleges, that the 2016
22 year is representative of the typical number of events hosted at the Riding Park from
23 2010 to the present.

24 53. Coastkeeper is informed and believes, and thereon alleges that the Riding
25 Park has capacity to board up to approximately 1,100 horses at a time on approximately
26 10 acres of the Riding Park facility.

27 54. Coastkeeper alleges that multiple roll-off dumpsters containing manure are
28 present at the Riding Park during and after equestrian events, and that when dumpsters

are left uncovered, it allows used bedding material and manure to be tracked around the areas closest to the Creek and its onsite tributaries.

55. Coastkeeper alleges that multiple roll-off dumpsters containing trash are left uncovered at the Riding Park during and after equestrian events, allowing trash to enter the Creek and onsite tributaries.

56. Coastkeeper alleges that persons are allowed to stay in RVs parked on the Riding Park during equestrian events without proper black water or grey water discharge connections.

57. Coastkeeper alleges that Defendants engage in heavy industrial activities at the Riding Park, including welding, repair of metal fencing, horse shoeing, and machinery, and operation of heavy equipment outdoors.

Geological Features

58. Exhibit G is a true and correct copy of a jurisdictional delineation map produced by the Army Corps, showing the Riding Park's proximity to waters subject to the Clean Water Act (shown by the blue lines and shaded area, near the label "1-12").¹

59. Off site water flows onto the Riding Park through natural and manmade tributaries as shown in Exhibit G.

60. The tributaries shown in Exhibit G ("onsite tributaries") are waters of the United States, and the Army Corps has specifically designated the natural channels and drainage at the Riding Park as being within its jurisdiction.

61. The Regional Board has designated such natural drainage patterns and features as part of the City's municipal separate storm sewer system ("MS4"). Further, the City has designated San Juan Creek as part of its MS4 system.

62. A map of the City's MS4 system is attached as Exhibit H. *See* South Orange County Water Quality Improvement Plan, Appendix A, Figure A-5 (April 1, 2017).

¹ U.S. Army Corps of Engineers, *San Juan Creek and Western San Mateo Creek Watershed Special Area Management Plan (SAMP) Environmental Impact Statement*, Figure 4.1.2-7a. (Nov. 2005).

1 63. The Riding Park is subject to flooding from the conveyance system shown in
2 Exhibits G and H, as well as from occasional high waters from San Juan Creek that
3 overflow its banks.

4 *Non-stormwater and Stormwater Pollution*

5 64. Defendants have been, and are continually, discharging pollutants into San
6 Juan Creek and onsite tributaries.

7 65. The discharged pollutants include, but are not limited to, “non-storm water,”
8 such as horse manure, bedding, sediment, equine footing, trash, and other materials
9 associated with equine operations, as well as polluted run-off and storm water.

10 66. Based upon information obtained from the Regional Board and the County
11 of Orange, Coastkeeper is informed, believes, and thereon alleges that the Riding Park
12 discharged process wastewater from its horse wash racks via PVC pipes directly into San
13 Juan Creek from approximately May 1, 2006 until at least September 3, 2016.

14 67. After the Riding Park removed the PVC discharge pipes, process wastewater
15 from horse wash racks has continued to discharge to San Juan Creek and did so on or
16 about March 29, 2017, April 17, 2017, May 3, 2017, May 6, 2017, and June 9, 2017.

17 68. Coastkeeper is informed and believes, and thereon alleges that process
18 wastewater from the wash racks discharged directly into San Juan Creek from 3,000
19 gallon above-ground temporary storage tanks intended to contain process wastewater on
20 or about May 3, 2017 and June 9, 2017.

21 69. Coastkeeper is informed and believes, and thereon alleges that process
22 wastewater from the wash racks routinely discharges, and is reasonably likely to continue
23 to be discharged, directly into San Juan Creek in the future.

24 70. Defendants discharged, or allowed the discharge of, trash from the Riding
25 Park, including plastic cups, paper plates, equine medicine applicators, feed bags, and
26 other forms of trash on or about March 29, 2017, April 17, 2017, May 3, 2017, May 6,
27 2017, and June 9, 2017.

1 71. Trash has been discharged from the Riding Park to the Creek and the
2 jurisdictional waters in the past and, based upon information and belief, Coastkeeper
3 alleges that Defendants will continue to discharge trash generated at future events hosted
4 at the Riding Park.

5 72. The equestrian event rings surrounded by onsite tributaries are covered with
6 equestrian footing material, which consists of sand, ground rubber, and other unknown
7 textiles. This footing is discharged from the event arenas into onsite tributaries during dry
8 weather.

9 73. Coastkeeper is informed and believes, and thereon alleges, that equestrian
10 footing is tracked around the Riding Park and is discharged into the onsite tributaries and
11 San Juan Creek during rain events.

12 74. Upon information and belief, Coastkeeper alleges that piles of manure and
13 used horse bedding containing byproducts such as urine and trash were pushed into the
14 creek bank on or about March 29, 2017.

15 75. Upon information and belief, Coastkeeper alleges that manure and used
16 horse bedding are reasonably likely to continue to be discharged into San Juan Creek
17 every time the Riding Park hosts equestrian events.

18 76. Based upon physical observations at the Riding Park, Coastkeeper believes
19 and thereon alleges that when rain falls onto the Riding Park, it runs through the stable
20 and manure areas towards San Juan Creek.

21 77. Upon information and belief, Coastkeeper alleges that storm water comes
22 into direct contact with manure and bedding from the stables, which have only dirt floors
23 and temporary walls. Water then flows towards the southwest into San Juan Creek, taking
24 along with it pollutants such as phosphorus, nitrogen, trash, and bacteria.

25 78. Upon information and belief, Coastkeeper alleges that each time it rains, the
26 Riding Park discharges polluted storm water into San Juan Creek.

1 79. Based upon its independent investigations, Coastkeeper is informed and
2 believes, and thereon alleges that water trucks discharge process wastewater onto
3 exhibition rings without a nutrient management plan.

4 80. Upon information and belief, Coastkeeper alleges that the Riding Park
5 operates without protocols for applying manure, litter, or process wastewater in
6 accordance with a nutrient management plan for the facility.

7 81. Upon information and belief, Coastkeeper alleges that the Riding Park
8 operates without sufficient manure and process wastewater storage.

9 82. Upon information and belief, Coastkeeper alleges that the Riding Park
10 operates without chemical and contaminant management of manure, litter, process
11 wastewater, and treatment.

12 83. Upon information and belief, Coastkeeper alleges that the Riding Park
13 operates without protocols for testing manure, litter, process wastewater, and soil.

14 84. Upon information and belief, Coastkeeper alleges that Defendants operate
15 the Riding Park without utilizing best management practices for reduction and control of
16 runoff and storm water to the maximum extent practicable.

17 *Dredge and Fill Activities*

18 85. Upon information and belief, Coastkeeper alleges that Defendants are using
19 sand and other fill material, including trash debris, to grade the portion of the Riding Park
20 that shares its border with the San Juan Creek streambank.

21 86. Upon information and belief, Coastkeeper alleges that Defendants are
22 depositing sand and other fill material, including trash debris, into San Juan Creek as a
23 result of grading activities on the portion of the Riding Park bordering San Juan Creek.

24 87. Coastkeeper alleges that Defendants deposited fill material into San Juan
25 Creek along the portion of the Riding Park that borders San Juan Creek on or about
26 March 22, 2017 and on or about May 1, 2017.

1 88. Upon information and belief, Coastkeeper alleges that Defendants will
2 continue to deposit fill material into San Juan Creek along the portion of the Riding Park
3 that borders San Juan Creek due to ongoing sloughing along that portion of the property.

4 89. Defendants' fill activities are occurring in, and impacting, waters of the
5 United States subject to the Clean Water Act.

6 90. Upon information and belief, Coastkeeper alleges that Defendants are
7 performing fill activities along the San Juan Creek bank in a parcel that is protected open
8 space, where such activities are prohibited.

9 91. Upon information and belief, Coastkeeper alleges that Defendants are
10 performing fill activities along the San Juan Creek bank without required permits or
11 letters of permission from the Army Corps.

12 92. Upon information and belief, Coastkeeper alleges that Defendants are
13 performing fill activities along the San Juan Creek bank without required water quality
14 certification from the Regional Board.

15 93. Upon information and belief, Coastkeeper alleges that Defendants are
16 conducting dredge and fill activities in the onsite tributaries shown in Exhibit G.

17 94. The onsite tributaries surround the equestrian event rings at the Riding Park.

18 95. Upon information and belief, Coastkeeper alleges that Defendants perform
19 dredge and fill activities to maintain the event rings surrounded by the onsite tributaries.

20 96. The onsite tributaries are waters of the United States subject to the Clean
21 Water Act.

22 97. Upon information and belief, Coastkeeper alleges that Defendants are
23 performing dredge and fill activities in the onsite tributaries without required permits or
24 letters of permission from the Army Corps.

25 98. Upon information and belief, Coastkeeper alleges that Defendants are
26 performing dredge and fill activities in the onsite tributaries without required water
27 quality certification from the Regional Board.

B. The Arizona Crossing

99. On January 20, 2010, the City acquired the Arizona Crossing that connects the Riding Park to Reata Park.

100. The Arizona Crossing is a manmade road that runs through San Juan Creek, and is designed to be covered with water from the Creek during times of heavy flow.

101. Upon information and belief, Coastkeeper alleges that the Arizona Crossing was damaged by a severe rain storm during the winter of 2009/2010, requiring repair.

102. Upon information and belief, Coastkeeper alleges that the City, through agents, employees, and contractors, repaired the Arizona Crossing in 2012 through dredging and filling activities.

103. Upon information and belief, Coastkeeper alleges that these filling activities have resulted in the loss or degradation of more than 0.1 acres of jurisdictional waters of the United States.

104. Upon information and belief, Coastkeeper alleges that the City did not obtain permits required under the Clean Water Act from the Army Corps for the repairs to the Arizona Crossing in 2012.

105. Upon information and belief, Coastkeeper alleges that the City did not undergo the required environmental review that accompies the federal permitting process.

106. Upon information and belief, Coastkeeper alleges that the City did not obtain certification required under the Clean Water Act from the Regional Board for the repairs to the Arizona Crossing in 2012.

107. The unpermitted discharges are composed of materials that are unsuitable for use as fill material, including, but not limited to, sheet metal, concrete blocks, corrugated metal pipes/culverts, uncompacted debris, asphalt, trash, and poured concrete.

108. During the heavy rainfall events that occurred during the winter of 2016/2017, the Arizona Crossing was again damaged.

109. The Arizona Crossing is currently closed due to damage caused by the heavy rainfall events that occurred during the winter of 2016/2017.

110. Based upon conversations between Coastkeeper staff and City Staff, Coastkeeper is informed and believes, and thereon alleges that the City is substantially likely to again conduct repair activities without permits or letters of permission required under the Clean Water Act from the Army Corps, and that such repairs would require the use of heavy equipment to remove the large amounts of asphalt, concrete, fencing, and other materials that have discharged into the Creek from the Arizona Crossing.

111. Based upon conversations between Coastkeeper staff and City Staff, Coastkeeper is informed and believes, and thereon alleges that the City is substantially likely to again conduct repair activities without certification legally required under the Clean Water Act from the Regional Board.

C. San Juan Creek

Description

112. Defendants are discharging pollution from the Riding Park and the Arizona Crossing into San Juan Creek.

113. San Juan Creek is a water of the United States subject to the protections of the Clean Water Act.

114. San Juan Creek is also designated by the Regional Board as part of the City's MS4.

115. The San Juan Creek watershed encompasses a drainage of approximately 176 square miles and extends along an East-West axis from the Cleveland National Forest in the Santa Ana Mountains to the Pacific Ocean at Doheny State Beach near Dana Point Harbor.²

116. As shown on Exhibit D, San Juan Creek divides the Riding Park and Reata Park, with the Riding Park on the south side and Reata Park on the north side, connected by the Arizona Crossing constructed in the Creek.

² U.S. Army Corps of Engineers, South Pacific Div., *Record of Decision for Revoking the Use of Selected Nationwide Permits within the San Juan Creek/Western San Mateo Creek Watersheds for the Special Area Management Plan Orange County, Cal.*, 1 (July 2010).

Environmental Resources and Threats to Water Quality

117. San Juan Creek and the adjacent estuarine and riparian habitats support a wide variety of flora and fauna, including endangered species such as the Pacific pocket mouse, the Southern California Coast Steelhead, the Quino checkerspot butterfly, the southwestern willow flycatcher, and many other species.

118. Portions of San Juan Creek have specifically been identified as critical habitat for a Southern California Coast Steelhead Biogeographic Population Group (“Steelhead Population Group”). The National Marine Fisheries Service’s species Recovery Plan identified threats to the Steelhead Population Group’s restoration efforts in San Juan Creek and concluded that culverts were a “very high threat,” and that dams, surface water diversions, and roads are “medium threat” sources.³

119. Physical modification of road crossings between estuary and upstream spawning and rearing habitats and the passage of smolts and kelts downstream to the estuary and ocean are specifically identified critical recovery actions for the Southern California Coast Steelhead.⁴

120. The Regional Board has designated several “beneficial uses” for San Juan Creek and the water bodies into which it drains. San Juan Creek’s existing beneficial uses include: agricultural supply, industrial service supply, contact water recreation, non-contact water recreation, warm freshwater habitat, cold freshwater habitat, and wildlife habitat. Likewise, the beneficial uses on the San Juan Creek Mouth, where San Juan Creek meets the Pacific Ocean, includes contact water recreation, non-contact water recreation, wildlife habitat, rare, threatened, or endangered species, marine habitat, migration of aquatic organisms, and shellfish harvesting. *Water Quality Control Plan, San Diego Region, Regional Water Quality Control Board, San Diego Region* (“Basin Plan”), Tables 2-2, 2-3 (updated May 17, 2016).

³ National Marine Fisheries Service – Southwest Regional Office, *Southern California Steelhead Recovery Plan Summary*, 18 (Jan. 2012).

⁴ National Marine Fisheries Service, *Southern California Steelhead Recovery Plan*, Table 13-3, 13-20 (Jan. 2012).

121. Since water quality for these uses has not been attained in San Juan Creek, the Regional Board has designated the water body as being “impaired” under Section 303(d) of the Clean Water Act. 33 U.S.C. § 1313(d).

122. The waters of San Juan Creek downstream of the Riding Park and Reata Park are listed under Section 303(d) as impaired for pollutants including, but not limited to, Indicator Bacteria, Phosphorus, Total Nitrogen as N, Toxicity, DDE, and Selenium.

123. The discharge of storm water carrying the byproducts of the Riding Park, including horse waste, bedding material, feed, metals, trash, and other materials contributes to, and threatens, San Juan Creek and downstream receiving waters.

124. The illegal discharge of non-stormwater, including manure, sediment and other fill material, construction wastes, debris, and other material into San Juan Creek also contributes to the impairment of the receiving waters.

V. STATUTORY AND REGULATORY BACKGROUND

A. The Clean Water Act, State Regulation, and Relevant Permitting Provisions

125. Congress passed the Clean Water Act to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters,” 33 U.S.C. § 1251(a), and with the “interim goal” that wherever attainable, “water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water achieved by July 1, 1983.” 33 U.S.C. § 1251(a)(2).

126. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant into waters of the United States unless the discharge complies with a permit issued pursuant to Clean Water Act Sections 402 or 404. 33 U.S.C. §§ 1342, 1344.

127. Section 402 of the Clean Water Act establishes National Pollutant Discharge Elimination System (“NPDES”) permits issued by EPA, or an EPA-delegated state, to achieve the goals stated in Section 301(a) of the Clean Water Act, 33 U.S.C. §§ 1311(a) and 1342(b).

1 128. In California, EPA has delegated its NPDES permitting authority to the State
2 of California.

3 129. The California Water Code vests the State Water Resources Control Board
4 (“State Board”) and the State’s nine regional water quality control boards with primary
5 responsibility for regulating state water quality. Cal. Water Code §§ 13001, 13050(a)-(b),
6 13200. The Regional Board identified above is one of the nine regional boards. The San
7 Juan Creek watershed, and the Pacific Ocean drainages from this watershed, fall within
8 its jurisdiction. Id. § 13200(f).

9 130. Each violation of an NPDES permit – and each discharge of a pollutant that
10 is not authorized by an NPDES permit – is a violation of the Clean Water Act and its
11 implementing regulations and is grounds for enforcement actions, including citizen
12 enforcement seeking civil penalties. 33 U.S.C. §§ 1311(a), 1342(a), 1365(a), 1365(f)(6);
13 40 C.F.R. § 122.41(a) (Dec. 21, 2015).

14 **B. NPDES Permits**

15 **1. Concentrated Animal Feeding Operation Permit**

16 131. Under the Clean Water Act, a “point source” includes a “concentrated
17 animal feeding operation” from which pollutants are or may be discharged. 33 U.S.C. §
18 1362(14).

19 132. To be considered a concentrated animal feeding operation (“CAFO”), the
20 facility must satisfy a two-part test. First, the facility must meet the definition of an
21 animal feeding operation (“AFO”). 40 C.F.R. § 122.23 (Jul. 30, 2012). Second, the
22 facility must confine a certain number of animals, which varies by species. Id.

23 133. An AFO is defined as a lot or facility where the following conditions are
24 met: “(i) Animals (other than aquatic animals) have been, are, or will be stabled or
25 confined and fed or maintained for a total of 45 days or more in any 12-month period,
26 and (ii) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the
27 normal growing season over any portion of the lot or facility.” 40 C.F.R. § 122.23(b)(1)(i-
28 ii) (Jul. 30, 2012).

1 134. According to EPA, if an animal is at the facility for a portion of the day, it
2 counts as a full day.⁵

3 135. The 12-month period is any 12-month period and need not correspond with a
4 calendar year.⁶

5 136. If a facility meets the definition of an AFO, the next step is to determine
6 whether it has the requisite number of animals present at the facility to be classified as a
7 CAFO. CAFOs may be further categorized as Large or Medium CAFOs based on the
8 number of animals at a facility.

9 137. For a horse AFO, 500 or more horses must be present at the facility to be
10 classified as a Large CAFO. 40 C.F.R. 122.23(4)(vi) (Jul. 30, 2012).

11 138. A Medium horse CAFO is any facility with 150-499 horses that also either:
12 (1) discharges “into waters of the United States through a man-made ditch, flushing
13 system, or other similar man-made device”; or (2) “[p]ollutants are discharged directly
14 into waters of the United States which originate outside of and pass over, across, or
15 through the facility or otherwise come into direct contact with the animals confined in the
16 operation.” 40 C.F.R. § 122.23(6) (Jul. 30, 2012).

17 139. For facilities smaller than a Medium CAFO, the Regional Board may still
18 designate any AFO as a CAFO if it determines that the AFO is a significant contributor
19 of pollutants to waters of the United States. 40 C.F.R. § 122.23 (Jul. 30, 2012).

20 140. Once an AFO is defined as a CAFO, the NPDES requirements for CAFOs
21 apply to all animals in confinement at the operation and all manure, litter, and process
22 wastewater generated by those animals or the production of those animals. *See* 40 C.F.R.
23 § 122.23(a) (Jul. 30, 2012).

24
25
26
27 ⁵ *NPDES Permit Writers’ Manual for CAFOs*.

https://www.epa.gov/sites/production/files/2015-08/documents/cafo_permitmanual_chapter2.pdf

28 ⁶ *Id.* Chapter 2-2. Accessed April 24, 2017.

1 141. Manure is defined to include “manure, bedding, compost, and raw materials
2 or other materials comingled with manure or set aside for disposal.” 40 C.F.R. §
3 122.23(b)(5) (Jul. 30, 2012).

4 142. Every discharge of pollutants from a CAFO into waters of the United States
5 without a NPDES permit is a violation of Section 301 of the CWA, 33 U.S.C. § 1311. *See*
6 *also* 40 C.F.R. §§ 122.23(d)(1), 122.23(f) (Jul. 30, 2012).

7 143. Like other NPDES permits, CAFO permits must contain effluent limitations,
8 monitoring and reporting requirements, record-keeping requirements, special conditions,
9 and standard conditions to ensure the CAFO is complying with the Clean Water Act.⁷

10 144. Effluent limitations are defined as “any restriction established by the
11 Administrator on quantities, rates, and concentrations of chemical, physical, biological
12 and other constituents which are discharged from point sources” into waters of the United
13 States. 40 C.F.R. § 401.11(i) (Aug. 28, 2015).

14 145. As explained below, a CAFO permit must include both technology-based
15 effluent limitations as well as more stringent water quality-based effluent limitations
16 when water quality standards are not being met.

17 146. The Clean Water Act requires all NPDES point sources to achieve
18 compliance with technology-based effluent limitations. 33 U.S.C. § 1311(b).

19 147. Technology-based effluent limitations for CAFOs must address all of the
20 discharges from a CAFO. 40 C.F.R. § 122.42(e) (Dec. 21, 2015).

21 148. CAFO permits must include limits for process wastewater discharges from
22 the CAFO’s production area and land application area. Technology-based effluent
23 limitations for Large CAFO production areas prohibit the discharge of “process
24 wastewater” to waters of the United States. 40 C.F.R. § 412.13(a) (Feb. 12, 2003).

25 149. Process wastewater is defined as water directly or indirectly used in
26 operation of the AFO for activities including: washing, cleaning, or flushing AFO

27 ⁷ *NPDES Permit Writers’ Manual for CAFOs*, [https://www.epa.gov/npdes/npdes-permit-](https://www.epa.gov/npdes/npdes-permit-writers-manual-concentrated-animal-feeding-operations)
28 [writers-manual-concentrated-animal-feeding-operations](https://www.epa.gov/npdes/npdes-permit-writers-manual-concentrated-animal-feeding-operations), Ch. 4 (Last Accessed May 3,
2017).

1 facilities; washing or spray cooling animals; dust control; or any water that comes into
 2 contact with any raw material, products, or byproducts including manure, litter, feed,
 3 milk, or bedding. 40 C.F.R. §§ 122.23(b)(7) (Jul. 30, 2012), 412.2(d) (Feb. 12, 2003).

4 150. The discharge of process wastewater is permissible only when rainfall
 5 events cause an overflow of process wastewater from a facility designed, constructed,
 6 operated, and maintained to contain all process-generated wastewaters plus the runoff
 7 from a 25-year, 24-hour rainfall event at the location of the point source. 40 C.F.R. §
 8 412.13(b) (Feb. 12, 2003).

9 151. The discharge of manure, litter or process wastewater to waters of the United
 10 States from a CAFO is subject to NPDES permit requirements. 40 C.F.R. §§ 122.23(e),
 11 122.23(b)(3) (Jul. 30, 2012).

12 152. A CAFO, whether permitted or not, cannot discharge manure, litter or
 13 process wastewater from land areas under its control due to precipitation events if those
 14 materials are applied in accordance with a site-specific, documented, nutrient
 15 management plan. 40 C.F.R. §§ 122.23(e)(1), (2) (Jul. 30, 2012).

16 153. Similarly, CAFO permits require implementation of a site specific nutrient
 17 management plan, that at a minimum, contains best management practices necessary to
 18 meet enumerated requirements and applicable effluent limitations and standards. 40
 19 C.F.R. § 122.42(e)(1) (Dec. 21, 2015). Those enumerated requirements include: (1)
 20 manure and process wastewater storage; (2) management of mortalities; (3) diversion of
 21 clean water from the production area; (4) prevention of direct contact of confined animals
 22 to waters of the United States; (5) chemical and contaminant management of manure,
 23 litter, process wastewater, storm water storage or treatment; (6) conservation practices;
 24 (7) protocols for testing manure, litter, process wastewater, and soil; (8) protocols for
 25 applying manure, litter, or process wastewater in accordance with the site-specific
 26 nutrient management plan; and (9) record keeping. *Id.* The nutrient management plan's
 27 terms are enforceable effluent limitations that must be included in the permit.⁸

28 ⁸ *Waterkeeper Alliance v. EPA*, 399 F.3d 486, 502 (2d Cir. 2005).

2. General Industrial Storm Water Permit

154. In California, the owners and/or operators of any facility that discharges storm water associated with industrial activities, as defined in 40 C.F.R. § 122.26 (Dec. 21, 2015), to waters of the United States must first obtain coverage under the state's General Industrial Storm Water Permit ("Industrial Storm Water Permit").⁹

155. The Industrial Storm Water Permit regulates industrial storm water discharges from specific categories of industrial facilities, which includes Large CAFOs. Industrial Storm Water Permit, Finding 9; 40 C.F.R. § 412.10 (Feb. 12, 2003).

156. For the types of industrial facilities contemplated in the Industrial Storm Water Permit, "storm water discharges associated with industrial activity" includes, but is not limited to, storm water discharges from: material handling sites; sites used for the application or disposal of process waste waters; sites used for the storage and maintenance of material handling equipment; storage areas for raw materials; areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water; and facilities subject to storm water effluent limitations guidelines under 40 C.F.R. subchapter N. 40 C.F.R. § 122.26(b)(14) (Dec. 21, 2015).

157. Large CAFOs are considered to be engaged in industrial activity under 40 C.F.R. § 122.26(b)(14) (Dec. 21, 2015).

158. Large CAFOs are subject to the requirements of the Industrial Storm Water Permit regardless of whether they have CAFO Permit coverage. *See* NPDES Permit Writers' Manual for CAFOs, 4-19.

159. Industrial Storm Water Permit requirements apply to any storm water discharge associate with industrial activity at a Large CAFO that are not otherwise regulated under 40 C.F.R. §§ 122.23 (Jul. 30, 2012), 412 (Feb. 12, 2003).

⁹ National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001, Water Quality Order 2014-0057-DWQ (hereinafter referred to as "Industrial Storm Water Permit"), Attachment A. *See also* 40 C.F.R. § 122.26(a)(1)(ii) (Dec. 21, 2015), 40 C.F.R. § 122.26(c)(1) (Dec. 21, 2015).

1 160. Large CAFO owners and/or operators may have the requirements of a Large
2 CAFO permit as well as an Industrial Storm Water Permit included in a single permit or
3 in separate wastewater and storm water permits.

4 161. The Industrial Storm Water Permit contains discharge prohibitions, effluent
5 limitations, receiving water limitations, and requirements for storm water pollution
6 prevention plans, monitoring and reporting programs, exceedance response actions
7 contingent on a facility's performance, and annual reporting requirements.

8 162. Discharges originating from the production areas at Large CAFOs are
9 subject to Storm Water Effluent Limitation Guidelines in the Industrial Storm Water
10 Permit. 40 C.F.R. § 412.10 (Feb. 12, 2003).

11 163. EPA established narrative effluent limitations for Large CAFOs that requires
12 the retention of all process wastewater from a facility designed, constructed, operated,
13 and maintained to contain all process wastewaters plus runoff from a 25-year, 24-hour
14 rainfall event. 40 C.F.R. § 412.13(b) (Feb. 12, 2003); *See also* Industrial Storm Water
15 Permit, Fact Sheet 16.

16 164. Effluent limitations attainable by the application of best available technology
17 economically achievable ("BAT") for Large CAFOs for horses is "no discharge process
18 waste water pollutants to U.S. waters." 40 C.F.R. § 412.13(a) (Feb. 12, 2003).

19 165. Every discharge of stormwater from an area of industrial activity at a CAFO
20 into waters of the United States without Industrial Storm Water Permit coverage is a
21 violation of Section 301 of the Clean Water Act, 33 U.S.C.A. § 1311.

22 166. Section 505 of the Clean Water Act, 33 U.S.C. § 1365, authorizes citizen
23 enforcement for violations of any effluent standard or limitation in effect under the Act,
24 including the failure to obtain an NPDES permit. 33 U.S.C. § 1365(f)(5).

3. Municipal Separate Storm Sewer System Permit

167. Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p), establishes a permitting framework to regulate municipal discharges. 33 U.S.C. § 1342(a), (p).

168. A municipal separate storm sewer system (“MS4”) is a conveyance or system of conveyances—including roads with drainage systems; municipal streets, catch basins; curbs; gutters; ditches; man-made channels; and storm drains—owned or operated by a state, city, or town that is designed or used for collecting or conveying storm water and that discharges to waters of the United States. *See* 40 C.F.R. § 122.26(b)(8)(i)-(ii) (Dec. 21, 2015); *see also* 40 C.F.R. § 122.26(B)(18) (Dec. 21, 2015).

169. MS4s are point sources that are subject to NPDES permitting requirements under the Clean Water Act and its implementing regulations. *See* 33 U.S.C. § 1311(a); 33 U.S.C. § 1342(p); 33 U.S.C. § 1362(12)(A); 40 C.F.R. § 122.2 (Aug. 28, 2015).

170. The Regional Board’s NPDES Permit for MS4s identifies twelve Orange County Copermittees, including the City, as well as Copermittees in San Diego and Riverside Counties as responsible for meeting the terms of the Permit. California Regional Water Quality Control Board San Diego Region, Order No. R9-2013,0001, as amended by Order Nos. R9-2015-0001 and R9-2015-0100, NPDES Permit No. CAS0109266, Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region, adopted May 8, 2013, effective as to Orange County on April 1, 2015 (the “2013 MS4 Permit”).

171. The current MS4 Permit, adopted in 2013, is the fourth generation permit for the City’s MS4 discharges. The previous MS4 Permit applicable to the City was adopted in 2009.

172. San Juan Creek, San Juan Creek Mouth, and the Pacific Ocean are “waters of the United States” as defined in the Clean Water Act and its implementing regulations. *See* 33 U.S.C. § 1362(7); 40 C.F.R. § 122.2 (Aug. 28, 2015).

173. The MS4 Permit recognizes that “historic and current development makes use of natural drainage patterns and features as conveyances for runoff.” 2013 MS4 Permit, Finding 11. Further, “[r]ivers, stream and creeks in developed areas used in this manner are part of the [City’s] MS4 regardless of whether they are natural, anthropogenic, or partially modified features.” *Id.*

174. San Juan Creek is a creek in the developed area of the City’s jurisdiction and is “both an MS4 and receiving water.” *See* 2013 MS4 Permit, Finding 11.

175. MS4 Permit violations are violations of the Clean Water Act and its implementing regulations and are grounds for enforcement under the Act, including citizen enforcement actions seeking civil penalties. 2013 MS4 Permit, Standard Permit Provisions I, and Attachment B 1.a.; *see also* 33 U.S.C. § 1365(a); 40 C.F.R. § 122.41(a) (Dec. 21, 2015).

a. Discharge Prohibition on Non-Stormwater Discharges into MS4s

176. The MS4 Permit requires that the City “effectively prohibit” non-stormwater discharges into the MS4 through the implementation of a Jurisdictional Runoff Management Plan, unless such discharges are authorized by a separate NPDES permit. 2013 MS4 Permit, Provision A.1.b.; 2009 MS4 Permit, Discharge Provisions B.1.; *see also* 2013 MS4 Permit, Findings 15.

177. The MS4 Permit requires the City’s Jurisdictional Runoff Management Plan to implement “a program to actively detect and eliminate illicit discharges and improper disposal into the MS4, or otherwise require the discharger to apply for and obtain a separate NPDES permit.” 2013 MS4 Permit, Provision E.2; 2009 MS4 Permit, Program Provisions F.4; *see also* 40 C.F.R. § 122.26(d)(2)(iv)(B) (Dec. 21, 2015).

178. An “illicit discharge” is “any discharge to a [MS4] that is not composed entirely of storm water and is not covered by an NPDES permit.” 2013 MS4 Permit, Attachment F-39; 2009 MS4 Permit, Attachment C-6; *see also* 40 C.F.R. § 122.26(b)(2) (Dec. 21, 2015).

1 179. The Illicit Discharge Detection and Elimination program must be
 2 implemented in accordance with previously adopted strategies (a water quality
 3 improvement plan) and include certain detailed requirements to achieve compliance with
 4 non-storm water discharge prohibitions and receiving water limitations. 2013 MS4
 5 Permit, Provision E.2., Provision A.4.

6 180. The City's Illicit Discharge Program must include specific measures to
 7 prevent and detect illicit discharges to the MS4. These measures include:

- 8 a. including and maintaining an accurate and updated geographic
 9 informational system ("GIS") map of its MS4 that, among other
 10 requirements, identifies all segments of the MS4 owned, operated, and
 11 maintained by the City. 2013 MS4 Permit, Provision E.2.b.(1); 2009
 12 MS4 Permit, Program Provisions F.4.b;
- 13 b. using the City's "personnel and contractors to assist in identifying and
 14 reporting illicit discharges and connections during their daily
 15 employment activities." 2013 MS4 Permit, Provision E.2.b.(2); *see*
 16 *also* 2009 MS4 Permit, Program Provisions F.4.a.(2)(b);
- 17 c. conducting field screening, including visual observations, of portions
 18 of its MS4 to detect non-storm water and illicit discharges and
 19 connections to the MS4. 2013 MS4 Permit, Provision E.2.c.; 2009
 20 MS4 Permit, Program Provisions F.4.a.(2)., F.4.d; and
- 21 d. including enumerated measures to investigate and eliminate illicit
 22 discharges to the MS4. 2013 MS4 Permit, Provision E.2.d.; 2009 MS4
 23 Permit, Program Provisions F.4.e-f.

24 181. The City is required to prioritize an investigation into non-stormwater or
 25 illicit discharges when, as here, pollutants identified with those discharges are identified
 26 as causing or contributing to receiving water impairments or impacting environmentally
 27 sensitive areas within the city. 2013 MS4 Permit, Provision E.2.d(1)(a-b); *see also* 2009
 28 MS4 Permit, Program Provisions F.4.e.

182. When illicit discharges and connections are known to the City, it must use its legal authority to eliminate them. 2013 MS4 Permit, Provision E.2.d(3)(a); *see also* 2009 MS4 Permit, Program Provisions F.4.g.

**b. Discharge Prohibition on Discharges that Cause or
Contribute to Violations of Water Quality Standards**

183. The MS4 Permit prohibits the City discharging from its MS4 “in a manner causing, or threatening to cause, a condition of pollution, contamination, or nuisance in receiving waters of the state (“Discharge Prohibition A.1.a”).” 2013 Permit, Provision A.1.a.; 2009 MS4 Permit, Discharge Provisions A.1.

184. The MS4 Permit also prohibits MS4 discharges from causing or contributing to a violation of water quality standards, including those in the Basin Plan. 2013 Permit, Provision A.2.a.; *Id.* at A.2.a.(1); 2009 MS4 Permit, Discharge Provisions A.3.

185. Unless otherwise authorized or approved by the Regional Board, the MS4 Permit and Basin Plan prohibit:

- a. the discharge of waste to land, except as authorized by waste discharge requirements. 2013 MS4 Permit, Attachment A 1.2; 2009 MS4 Permit, Attachment A 2;
- b. the discharge of dredged or fill material to waters of the United States except as authorized by a permit. 2013 MS4 Permit, Attachment A 1.3; 2009 MS4 Permit, Attachment A 3;
- c. the dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters where waste may be transported into the waters. 2013 MS4 Permit, Attachment A 1.7; 2009 MS4 Permit, Attachment A 7; and
- d. the discharge to a storm water conveyance system that is not composed entirely of “storm water.” 2013 MS4 Permit, Attachment A 1.8; 2009 MS4 Permit, Attachment A 8.

186. Compliance with Discharge Prohibitions A.1.a and Receiving Water Limitation A.2.a of the MS4 Permit is achieved “through the timely implementation of control measures and other actions as specified Provisions B [Water Quality Improvement Plans] and E [Jurisdictional Runoff Management Programs] of this Order, including any modifications.” 2013 MS4 Permit, Provision A.4.; *see also* 2009 MS4 Permit, Discharge Provisions A.3.

c. MS4 Permit Requirement for Municipalities to Have Legal Authority to Enforce Its Terms

187. In addition to its discharge prohibitions and controls on the City’s own activities, the MS4 Permit requires the City to “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.” 2013 MS4 Permit, Provision E.1.a.; 2009 MS4 Permit, Discharge Provisions E.1.; *see also* 40 C.F.R. § 122.26(d)(2)(vi)(B)(1) (Dec. 21, 2015).

188. As noted above, the MS4 Permit demands that the City maintain adequate legal authority to, at a minimum, “prohibit and eliminate all illicit discharges and illicit connections to the MS4.” 2013 MS4 Permit, Provision E.1.a.(1); 2009 MS4 Permit, Discharge Provisions E.1.c.; *see also* 40 C.F.R. § 122.26(d)(2)(i)(B) (Dec. 21, 2015).

189. The City’s legal authority must also control the discharge of spills, dumping, or disposal of materials other than storm water into its MS4. 2013 MS4 Permit, Provision E.1.a.(3); 2009 MS4 Permit, Discharge Provisions E.1.d.

190. The City’s authority must require the use of best management practices (“BMPs”) to prevent or reduce the discharge of pollutants in storm water *from* its MS4 to the maximum extent practicable. 2013 MS4 Permit, Provision E.1.a.(7).

191. The City’s authority must also require the use of BMPs to prevent or reduce the discharge of pollutants *into* MS4s from storm water to the maximum extent practicable. 2009 MS4 Permit, Discharge Provisions E.1.i.

192. In addition, the City must have the authority to, at a minimum, ensure compliance with its own regulatory efforts to effectively prohibit non-storm water discharges and either eliminate those discharges to their MS4 or require those dischargers to obtain their own separate NPDES permit. 2013 MS4 Permit, Provision E.1.a.(9).; *see also Id.*, Attachment F at F-40; 2009 MS4 Permit, Discharge Provisions E.1.e.

193. The MS4 Permit requires that the City submit a statement certifying that it has “taken the necessary steps to obtain and maintain full legal authority within its jurisdiction to implement and enforce each of the requirements in the [MS4 Permit].” 2013 MS4 Permit, Provision E.1.b.; 2009 MS4 Permit, Discharge Provisions E.2.

C. Dredge and Fill Permits

1. Clean Water Act Section 404(a) Requirements for Discharging Dredged or Fill Material

194. Section 404(a) of the Clean Water Act, 33 U.S.C. § 1344(a), establishes an Army Corps-administered permit program for the discharge of dredged or fill material into waters of the United States.

195. Section 404 requirements are distinct from, and in addition to, the NPDES permit framework in Section 402, 33 U.S.C. § 1342.

196. Section 404(a) of the Clean Water Act, 33 U.S.C. § 1344(a), prohibits the “discharge of a pollutant” into waters of the United States, except in compliance with permit provisions in the Act.

197. The Act broadly defines the term “pollutant” to include dredged spoil, rock, sand, and agricultural waste discharged into water. 33 U.S.C. § 1362(6).

198. The “discharge of fill material” is defined as “the addition of fill material into waters of the United States,” including, but not limited to, infrastructure construction fill, causeway or road fills, and “site development fills for recreational, industrial, commercial, residential, or other uses.” 33 C.F.R. § 323.2(f) (Dec. 30, 2008).

1 199. “Fill material” refers to material that replaces aquatic area with dry land or
2 of changing the bottom elevation of a waterbody. 33 C.F.R. § 323.2(e)(1) (Dec. 30,
3 2008).

4 200. “Dredged material” means “material that is excavated or dredged from
5 waters of the United States.” 33 C.F.R. § 323.2(c) (Dec. 30, 2008).

6 201. The Army Corps has asserted jurisdiction over San Juan Creek and onsite
7 tributaries (shown in Exhibit G) at the Riding Park.

8 202. The Army Corps has the authority to issue individual permits or “general
9 permits on a state, regional or nationwide basis for any category of activities involving
10 discharges of dredged or fill material” (both known as a “Section 404 Permit”). 33 U.S.C.
11 § 1344(e)(1).

12 203. Regional permits are a type of general permit issued by a Division or District
13 Engineer that may require case-by case reporting and acknowledgement. 33 C.F.R. §
14 325.5(c)(1) (Jul. 6, 1990).

15 204. The Army Corps has issued a general permit, Regional General Permit 74
16 (“RGP 74”), as the framework for the San Juan Creek/Western San Mateo Creek
17 Watersheds Special Area Management Plan (“Special Area Management Plan”).

18 205. While the Riding Park’s jurisdictional waters (seen on Exhibit G) fall within
19 RGP 74 and qualify for a permit under its terms, San Juan Creek does not and therefore
20 does not qualify for this abbreviated permitting. RGP 74, Figure 10.

21 206. Therefore, any dredging or discharge of dredge and fill materials in San Juan
22 Creek requires a party to undergo the ordinary, individual permitting process under
23 Section 404.

24 207. For the Riding Park, the Special Area Management Plan permitting
25 framework uses the RGP and new letters of permission procedures as an abbreviated
26 means of processing regional Section 404 permits. RGP 74, 3; *see also* 33 C.F.R. §
27 325.5(b)(2) (Jul. 6, 1990).

1 208. To obtain the necessary authorization for dredge and fill activities, RGP 74
2 requires prior written approval from the Army Corps' Los Angeles District Office stating
3 that the project complies with the terms and conditions of the RGP.

4 209. Among its requirements, RGP 74 prohibits the discharge of fill materials,
5 including trash and debris, into jurisdictional waters. RGP 74, General Condition 7.

6 210. RGP 74 also requires the applicant to adopt measures to prevent potential
7 pollutants from entering the watercourse. RGP 74, General Condition 10.

8 211. Failure to comply with RGP 74's terms and conditions violates Section 404
9 and may result in revocation, suspension, or modification of the RGP authorization and
10 the assessment of civil penalties. RGP 74, Compliance.

11 **2. Clean Water Act Section 401's Requirement for State Water**
12 **Quality Certification before Discharge of Material into Waters of**
13 **the United States.**

14 212. Section 401(a)(1) of the Clean Water Act, 33 U.S.C. § 1341(a)(1), requires
15 that any application to the Army Corps for a Section 404 permit must include a
16 "certification from the State in which the discharge originated or will originate...that
17 any...discharge will comply with [other sections of the Clean Water Act]."

18 213. Before the Army Corps can issue a Section 404 permit, the state must
19 certify the project is compliant with local Basin Plans and water quality objectives. 33
20 U.S.C. § 1341(a)(1).

21 214. This certification from the state is known as Section 401 Certification.

22 215. Section 404 permits rely upon, and are required to, incorporate any
23 conditions imposed by a state's water quality certification. 33 U.S.C. § 1341(a)(1).

24 216. The Clean Water Act allows for citizen enforcement for the failure to obtain
25 a state water quality certification under Section 401(a) of the Act. 33 U.S.C. § 1365(f)(5).

1 **VI. CLAIMS FOR RELIEF**

2 **FIRST CAUSE OF ACTION**

3 **AGAINST ALL DEFENDANTS**

4 **Unpermitted Discharges From A Large Concentrated Animal Feeding**
5 **Operation Without An NPDES Permit.**

6 **33 U.S.C. §§ 1311(a), 1342(p), 1365(a) and 1365(f)**

7 217. Coastkeeper incorporates the allegations contained in the above paragraphs
8 as though fully set forth herein.

9 218. The City is the owner and/or operator of the Riding Park.

10 219. Blenheim Facility Management, LLC. is an operator of the Riding Park.

11 220. Based upon information submitted by Defendants to the Regional Board and
12 its own investigations, Coastkeeper is informed, believes, and thereon alleges that horses
13 are fed and/or maintained at the Riding Park.

14 221. Based upon information submitted by Defendants to the Regional Board and
15 upon its own investigations, Coastkeeper is informed, believes, and thereon alleges that
16 horses are fed and/or maintained at the Riding Park on more than 45 days in a 12-month
17 period.

18 222. Based upon information submitted by Defendants to the Regional Board and
19 its own investigations, Coastkeeper is informed, believes, and thereon alleges that there
20 are no crops, vegetation, forage, or post-harvest residues sustained over any portion of the
21 Riding Park, and horses are not permitted to graze upon the Riding Park.

22 223. When horses are present at the Riding Park but not engaged in competition-
23 related activities, they are confined to stables.

24 224. The Riding Park is an horse Animal Feeding Operation.

25 225. Based upon information submitted by Defendants to the Regional Board and
26 upon its own investigations, Coastkeeper is informed, believes, and thereon alleges that
27 during the 2016 calendar year, there were 58 days when Defendants stabled or confined
28 over 500 horses at the Riding Park. Exhibit E.

1 226. Based upon information submitted by Defendants to the Regional Board and
2 upon its own investigations, Coastkeeper is informed, believes, and thereon alleges that
3 during the 2016 calendar year, there were 127 days where horses were present at the
4 Riding Park. Exhibit E.

5 227. Based upon information submitted by Defendants to the Regional Board and
6 its own investigations, Coastkeeper is informed, believes, and thereon alleges that during
7 the 2016 calendar year, there were a total of 8,354 horses at the Riding Park. Exhibit E.

8 228. Based upon information submitted by Defendants to the Regional Board and
9 its own investigations, Coastkeeper is informed, believes, and thereon alleges that the
10 Riding Park is a Large CAFO for horses.

11 229. Based upon its independent investigations, Coastkeeper is informed,
12 believes, and thereon alleges that pollutants from the Riding Park have been and are
13 continually discharged to San Juan Creek, a water of the United States, and to onsite
14 jurisdictional waters. Pollutants include, but are not limited to, non-stormwater, such as
15 horse manure, bedding, sediment, equine footing, trash, and other pollutants associated
16 with equine operations, as well as polluted storm water.

17 230. Based upon information obtained from the Regional Board and the County
18 of Orange, Coastkeeper is informed, believes, and thereon alleges that the Riding Park
19 discharged process wastewater from horse wash racks via discharge pipes plumbed
20 directly into San Juan Creek from approximately May 1, 2006 until at least September 3,
21 2016.

22 231. Coastkeeper is informed, believes, and thereon alleges that process
23 wastewater from horse wash racks was discharged on or about March 29, 2017, April 17,
24 2017, May 3, 2017, May 6, 2017, and June 8, 2017.

25 232. Based upon information obtained from the Regional Board and its own
26 independent investigations, Coastkeeper is informed, believes, and thereon alleges that
27 process wastewater from horse wash racks continues to be discharged into San Juan
28 Creek whenever horses are present at the Riding Park.

1 233. Based upon Coastkeeper's independent investigations, it is informed,
2 believes, and thereon alleges that on or about May 3, 2017, process wastewater from the
3 wash racks was discharged directly into San Juan Creek from valves at the bottom of the
4 3,000 gallon above-ground storage tanks that are meant to contain process wastewater.

5 234. Based upon Coastkeeper's independent investigations, it is informed,
6 believes, and thereon alleges that process wastewater from the wash racks is reasonably
7 likely to be discharged directly into San Juan Creek from valves at the bottom of the
8 3,000 gallon above-ground storage tanks that are meant to contain process wastewater in
9 the future.

10 235. Trash and litter, including cups, paper plates, and other forms of trash, were
11 discharged from the Riding Park to the Creek and its tributary waters, on or about March
12 29, 2017, April 17, 2017, May 3, 2017, May 6, 2017, and June 8, 2017.

13 236. Trash and litter have been discharged from the Riding Park into waters of
14 the United States in the past and the Riding Park continues to discharge trash related to
15 equestrian events.

16 237. Piles of manure were pushed into the creek bank on or about March 29,
17 2017.

18 238. Coastkeeper is informed, believes, and thereon alleges that manure is
19 reasonably likely to continue to be discharged into San Juan Creek every time the Riding
20 Park hosts equestrian events.

21 239. Coastkeeper is informed, believes, and thereon alleges that rain falls onto the
22 Riding Park and runs through the stable and manure areas towards San Juan Creek.

23 240. Plaintiff is informed, believes, and thereon alleges that storm water run-off
24 comes into direct contact with manure and bedding from the stables, which have only dirt
25 floors and temporary walls. Water then flows towards the southwest into San Juan Creek,
26 taking along with it pollutants such as phosphorus, nitrogen, trash, and bacteria.

1 241. Coastkeeper is informed, believes, and thereon alleges that since March 31,
2 2012, there have been at least 94 storm events that would create storm water run-off at
3 the Riding Park. Exhibit I.

4 242. Coastkeeper is informed, believes, and thereon alleges that each time it has
5 rains, the Riding Park discharges polluted storm water into San Juan Creek and the
6 Riding Park's onsite tributaries.

7 243. Coastkeeper is informed, believes, and thereon alleges that water trucks
8 discharge process wastewater onto the Riding Park's exhibition rings, which drain to
9 waters of the United States.

10 244. Coastkeeper is informed, believes, and thereon alleges that the Defendants
11 apply process wastewater to the Riding Park's exhibition rings, and other land, without
12 having a site-specific nutrient management plan and that the wastewater discharges to
13 waters of the United States.

14 245. Coastkeeper is informed, believes, and thereon alleges that the Riding Park
15 operates without sufficient manure and process wastewater storage.

16 246. Coastkeeper is informed, believes, and thereon alleges that the Riding Park
17 operates without proper diversion of clean water from the production area.

18 247. Coastkeeper is informed, believes, and thereon alleges that the Riding Park
19 operates without preventing direct contact of confined animals to waters of the United
20 States.

21 248. Plaintiff is informed, believes, and thereon alleges the Riding Park operates
22 without chemical and contaminant management of manure, litter, process wastewater,
23 and treatment.

24 249. Plaintiff is informed, believes, and thereon alleges the Riding Park operates
25 without protocols for testing manure, litter, process wastewater, and soil.

26 250. Plaintiff is informed, believes, and thereon alleges the Riding Park operates
27 without protocols for applying manure, litter, or process wastewater in accordance with a
28 site-specific nutrient management plan.

1 259. Coastkeeper pleads in the alternative, that if the Riding Park is not a Large
2 CAFO, then it is a Medium CAFO.

3 260. Based upon information submitted by Defendants to the Regional Board,
4 Coastkeeper alleges that during the 2016 calendar year, there were at least 109 days when
5 more than 150 horses were fed or maintained at the Riding Park. Exhibits E-F.

6 261. Coastkeeper is informed, believes, and thereon alleges that the Riding Park
7 discharges into waters of the United States both directly into the Creek from the site, as
8 well as through a man-made ditch, flushing system, or other similar man-made device.

9 262. Coastkeeper is informed, believes, and thereon alleges that the Riding Park
10 discharges pollutants that originate outside of and pass over, across, or through the
11 facility or otherwise come into direct contact with the animals confined in the operation
12 directly into waters of the United States.

13 263. Coastkeeper is informed, believes, and thereon alleges that the Riding Park
14 discharges pollutants associated with CAFOs as alleged in paragraphs 229-251.

15 264. Coastkeeper alleges that Defendants do not have an NPDES permit to
16 operate the Riding Park as a Medium CAFO.

17 265. Every day that the Riding Park operates without a CAFO permit is a separate
18 and distinct violation of Section 301 of the Clean Water Act, 33 U.S.C. § 1311.

19 266. Defendants have been in continuous violation of Section 301 of the Clean
20 Water Act, 33 U.S.C. § 1311, since March 31, 2012.

21 267. By committing the acts and omissions alleged above, Defendants are subject
22 to an assessment of civil penalties for each and every violation of the Clean Water Act
23 pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365, and 40
24 C.F.R. § 19.4.

25 268. An action for injunctive relief under the Clean Water Act is authorized by
26 Section 505(a). 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions
27 alleged above would irreparably harm Plaintiffs and the citizens of the State of
28 California, for which harm Plaintiffs have no plain, speedy, or adequate remedy at law.

269. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a) because an actual controversy exists as to the rights and other legal relations of the Parties.

WHEREFORE, Coastkeeper prays for judgment against the Defendants as set forth hereafter.

THIRD CAUSE OF ACTION
AGAINST ALL DEFENDANTS

Unpermitted Discharges from Areas Associated with Industrial Activity

33 U.S.C. §§ 1311(a), 1342(p), 1365(a) and 1365(f)

270. Coastkeeper incorporates the allegations contained in the above paragraphs as though fully set forth herein.

271. Coastkeeper alleges that Defendants are conducting industrial activities on the Riding Park property as defined in the Industrial Storm Water Permit's Attachment A.

272. Coastkeeper is informed, and believes, and thereon alleges, the Industrial Storm Water Permit regulates industrial storm water discharges from Large CAFOs.

273. Coastkeeper is informed, and believes, and thereon alleges, that Defendants operating a Large CAFO must concurrently enroll under the Industrial Storm Water Permit.

274. Coastkeeper is informed, and believes, and thereon alleges, that facilities engaged in industrial activities are required to obtain Industrial Storm Water Permit coverage.

275. Upon information and belief, Coastkeeper alleges that Defendants' industrial activities include, but are not limited to, the storage and maintenance of material handling equipment, the storage of raw materials, materials handling, the onsite application or disposal of process waste water, and vehicle maintenance, including mechanical repair, fueling, and lubrication.

1 276. Upon information and belief, Coastkeeper alleges that these industrial
2 activities regularly occur in areas exposed to storm water at the Riding Park and without
3 necessary best management practices.

4 277. Upon information and belief, Coastkeeper alleges that Defendants do not
5 have permit coverage under the Industrial Storm Water Permit.

6 278. Upon information and belief, Coastkeeper alleges that Defendants have not
7 met any of the requirements of the Industrial Storm Water Permit, including, but not
8 limited to discharge prohibitions, effluent limitations, receiving water limitations,
9 requirements for storm water pollution prevention plans, monitoring and reporting
10 programs, exceedance response actions contingent on a facility's performance, and
11 annual reporting requirements.

12 279. Upon information and belief, Coastkeeper alleges that Defendants discharge
13 process waste water pollutants to waters of the United States.

14 280. Upon information and belief, Coastkeeper alleges Defendants have not
15 designed, constructed, operated, or maintained the Riding Park to retain all process waste
16 water and runoff from a 25-year, 24-hour rainfall event, as would allow Defendants to
17 forgo coverage under the Industrial Storm Water Permit.

18 281. Every discharge of storm water from an area of industrial activity at a Large
19 CAFO into waters of the United States without Industrial Storm Water Permit coverage is
20 a violation of Section 301 of the Clean Water Act, 33 U.S.C. § 1311.

21 282. By discharging pollutants from the Riding Park without the required permit
22 coverage, Defendants have been in continuous violation of Section 301 of the Clean
23 Water Act, 33 U.S.C. § 1311 since March 31, 2012.

24 283. By committing the acts and omissions alleged above, Defendants are subject
25 to an assessment of civil penalties for each and every violation of the Clean Water Act
26 pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365, and 40
27 C.F.R. § 19.4 (Jan. 12, 2017).
28

1 284. An action for injunctive relief under the Clean Water Act is authorized by
 2 Section 505(a) of the Act. 33 U.S.C. § 1365(a). Continuing commission of the acts and
 3 omissions alleged above would irreparably harm Coastkeeper, its members, and the
 4 citizens of the State of California, for which harm Coastkeeper has no plain, speedy, or
 5 adequate remedy at law.

6 285. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a) because
 7 an actual controversy exists as to the rights and other legal relations of the Parties.

8 WHEREFORE, Plaintiffs pray judgment against the Defendants as set forth
 9 hereafter.

10 **FOURTH CAUSE OF ACTION**

11 **AGAINST DEFENDANT CITY OF SAN JUAN CAPISTRANO**

12 **Failure to Effectively Prohibit Discharges of Non-Storm Water into the** 13 **MS4 in Violation of the MS4 Permits and the Clean Water Act.**

14 **33 U.S.C. §§ 1311(a), 1342(p), 1365(a) and 1365(f)**

15 286. Coastkeeper incorporates the allegations contained in the above paragraphs
 16 as though fully set forth herein.

17 287. The City is the owner and/or operator of the City MS4.

18 288. The City has failed to effectively prohibit non-stormwater discharges into
 19 the MS4 originating from the Riding Park.

20 289. The City has failed to develop an adequate Jurisdictional Runoff
 21 Management Plan, as required by the MS4 permits, to detect and eliminate illicit
 22 discharges and their improper disposal into the MS4.

23 290. The City has failed to implement an adequate Jurisdictional Runoff
 24 Management Plan, as required by the MS4 permits, to detect and eliminate illicit
 25 discharges and their improper disposal into the MS4.

26 291. The City has failed to enforce its legal authority to eliminate illicit
 27 discharges and connections to the MS4, as required by its MS4 permits.
 28

1 292. Upon information and belief, Coastkeeper alleges that the Riding Park has
2 discharged non-storm water to the City MS4 on numerous occasions since March 31,
3 2012.

4 293. At a minimum, the City has failed to effectively prohibit the discharge of
5 non-storm water to the City MS4 on every occasion that non-storm water from horse
6 washing activities is discharged to the City MS4.

7 294. The City has also failed to effectively prohibit the discharge of non-storm
8 water to the Riding Park's jurisdiction waters on every occasion that sediment, trash,
9 bedding, and other non-storm water is discharged to the MS4.

10 295. Upon information and belief, Coastkeeper alleges that the Riding Park does
11 not possess its own separate NPDES permit under which it may discharge non-storm
12 water.

13 296. Each day since March 31, 2012 to the present that the City has failed to
14 effectively prohibit non-storm water discharges from the Riding Park to San Juan Creek
15 is a separate and distinct violation of the MS4 Permit's prohibition on non-stormwater
16 discharges. Discharge Prohibition B.1. of the 2009 MS4 Permit; *see also* 33 U.S.C. §
17 1311(a).

18 297. Each day since March 31, 2012 to the present that the City failed and
19 continues to fail to effectively prohibit non-storm water discharges from the Riding Park
20 to the City MS4 is a separate and distinct violation of the MS4 Permit's prohibition on
21 non-stormwater discharges. Discharge Prohibition A.1.b of the 2013 MS4 Permit; *see*
22 *also* 33 U.S.C. § 1311(a).

23 298. By committing the acts and omissions alleged above, the City is subject to
24 an assessment of civil penalties for each and every violation of the Clean Water Act
25 occurring from March 31, 2012 to the present. See 33 U.S.C. §§ 1319(d), 1365; and 40
26 C.F.R. § 19.4 (Jan.15, 2017).

1 305. From March 31, 2012 to the present, each day that the City has caused or
2 contributed to exceedances of water quality standards is a separate and distinct violation
3 of the applicable MS4 Permits and 33 U.S.C. §§ 1311(a) and 1342(p).

4 306. These violations are ongoing and continuous. In light of the City's history of
5 violations and the nature of the violations, the City will continue to violate these
6 requirements in the future unless and until enjoined from doing so.

7 307. By committing the acts and omissions alleged above, Defendant City is
8 subject to an assessment of civil penalties for each violation of 33 U.S.C. § 1311(a). *See*
9 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4 (Jan.15, 2017).

10 308. An action for injunctive relief under the Clean Water Act is authorized by 33
11 U.S.C. § 1365(a). Defendant is subject to an injunction ordering them to cease activities
12 in violation of the Clean Water Act.

13 309. Allowing the commission of the acts and omissions alleged above to
14 continue will irreparably harm Coastkeeper and its members, for which they have no
15 plain, speed, or adequate remedy at law

16 WHEREFORE, Plaintiff Coastkeeper prays for judgment against Defendant City
17 as set forth below.

18 **SIXTH CAUSE OF ACTION**
19 **AGAINST ALL DEFENDANTS**

20 **Unpermitted Dredge and/or Fill Activities at the Riding Park in**
21 **Violation of Sections 301(a) and 404 of the Clean Water Act**
22 **33 U.S.C. §§ 1311(a), 1344, 1365(a) and 1365(f)**

23 310. Coastkeeper incorporates the allegations contained in the above paragraphs
24 as though fully set forth herein.

25 311. Coastkeeper is informed, believes, and thereon alleges, that on multiple
26 occasions, Defendants and/or persons acting at their direction, or with Defendants'
27 consent and/or knowledge, discharged fill material from point sources into waters of the
28

1 United States at the Riding Park as described in Paragraphs 85-98 including the impacted
2 onsite tributaries identified in Exhibit G.

3 312. Upon information and belief, Coastkeeper alleges that since at least March
4 31, 2012, Defendants have discharged, and continue to discharge, fill material from the
5 Riding Park into waters of the United States without obtaining a Section 404 permit from
6 the Army Corps.

7 313. Defendants' action resulted in the unpermitted filling of more than 0.1 acres
8 of impacted jurisdictional waters. *See* 33 U.S.C. § 1344.

9 314. Defendants will continue to violate the Clean Water Act each day they
10 discharge fill material into San Juan Creek and at the Riding Park without a Section 404
11 permit from the Army Corps.

12 315. Each day that Defendants discharge fill without obtaining the required 404
13 Permit is a separate and distinct violation of Section 301(a) of the Clean Water Act, 33 §
14 U.S.C. 1311(a).

15 316. By committing the acts and omissions alleged above, Defendants are subject
16 to an assessment of civil penalties for each violation of 33 U.S.C. § 1311(a), pursuant to
17 Sections 309(d) and 505 of the Clean Water Act, 33 U.S.C. § 1319(d), 33 U.S.C. § 1365,
18 and 40 C.F.R. § 19.4 (Jan.15, 2017).

19 317. An action for injunctive relief under the Clean Water Act is authorized by 33
20 U.S.C. § 1365(a). Defendants are subject to an injunction ordering them to cease
21 violating the Clean Water Act.

22 318. Continuing commission of the acts and omissions alleged above will
23 irreparably harm Coastkeeper and its members, for which they have no plain, speed, or
24 adequate remedy at law.

25 WHEREFORE, Coastkeeper prays for judgment against Defendants as set forth
26 below.
27
28

SEVENTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS

Unpermitted Dredge and/or Fill Activities at the Riding Park in
Violation of Sections 301(a) and 401 of the Clean Water Act
33 U.S.C. §§ 1311(a), 1341, 1365(a) and 1365(f)

319. Coastkeeper incorporates the allegations contained in the above paragraphs as though fully set forth herein.

320. Coastkeeper is informed, believes, and thereon alleges, that on more than one occasion, Defendants and/or persons acting at their direction, or with Defendants' consent and/or knowledge, discharged fill material from point sources into waters of the United States at the Riding Park as described in Paragraphs 85-98 including the impacted onsite tributaries identified in Exhibit G.

321. Coastkeeper is informed and believes, and thereon alleges, that at least since March 31, 2012, Defendants have been discharging fill material from the Riding Park without seeking or obtaining a Section 401 Certification from the Regional Board.

322. Defendants will continue to be in violation of the Clean Water Act each day they dredge and/or discharge fill without a Section 401 Certification.

323. Each day that Defendants discharge fill without obtaining the required 401 Certification is a separate and distinct violation of Section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a).

324. By committing the acts and omissions alleged above, Defendants are subject to an assessment of civil penalties for each violation of 33 U.S.C. § 1311(a), pursuant to Sections 309(d) and 505 of the Clean Water Act, 33 U.S.C. § 1319(d), 33 U.S.C. § 1365, and 40 C.F.R. § 19.4 (Jan.15, 2017).

325. An action for injunctive relief under the Clean Water Act is authorized by 33 U.S.C. § 1365(a). Defendants are subject to an injunction ordering them to cease violating the Clean Water Act.

1 326. Continuing commission of the acts and omissions alleged above will
2 irreparably harm Coastkeeper and its members, for which they have no plain, speed, or
3 adequate remedy at law.

4 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth below.

5 **EIGHTH CAUSE OF ACTION**

6 **AGAINST DEFENDANT CITY OF SAN JUAN CAPISTRANO**

7 **Unpermitted Dredge and Fill Activities at the Arizona Crossing**
8 **in Violation of Sections 301(a) and 404 of the Clean Water Act.**

9 **33 U.S.C. §§ 1311(a), 1344(a), 1365(a) and 1365(f)**

10 327. Coastkeeper incorporates the allegations contained in the above paragraphs
11 as though fully set forth herein.

12 328. Coastkeeper is informed, believes, and thereon alleges, that since at least
13 March 31, 2012, the City has dredged and has discharged fill from the Arizona Crossing
14 into waters of the United States without a Section 404 permit from the Army Corps.

15 329. Coastkeeper is informed, believes, and thereon alleges, the City's actions
16 and/or the actions of persons acting at their direction or with their consent and/or
17 knowledge at the Arizona Crossing resulted in the filling of more than 0.1 acres of waters
18 of the United States without a Section 404 permit, in violation of Section 301(a) of the
19 Clean Water Act, 33 U.S.C. § 1311(a).

20 330. Coastkeeper is informed, believes, and thereon alleges, that the City's
21 unpermitted discharge of fill material in violation of the Clean Water Act is ongoing at
22 the Arizona Crossing.

23 331. The City will continue to be in violation of the Clean Water Act each day it
24 discharges fill at the Arizona Crossing without a Section 404 permit.

25 332. Each day the City discharges fill or attempts to dredge San Juan Creek to
26 repair, remove, or replace the Arizona Crossing without obtaining a Section 404 permit is
27 a separate and distinct violation of Section 301(a) of the Clean Water Act, 33 U.S.C. §
28 1311(a).

1 333. By committing the acts and omissions alleged above, Defendant City is
 2 subject to an assessment of civil penalties for each violation of the Act. *See* 33 U.S.C. §§
 3 1319(d), 1365, and 40 C.F.R. § 19.4 (Jan.15, 2017).

4 334. An action for injunctive relief under the Clean Water Act is authorized by 33
 5 U.S.C. § 1365(a). Defendant City is subject to an injunction ordering it to cease violating
 6 the Clean Water Act.

7 335. Continuing commission of the acts and omissions alleged above will
 8 irreparably harm Coastkeeper and its members, for which they have no plain, speed, or
 9 adequate remedy at law.

10 WHEREFORE, Plaintiff Coastkeeper prays for judgment against Defendant City
 11 as set forth below.

12 **NINTH CAUSE OF ACTION**

13 **AGAINST DEFENDANT CITY OF SAN JUAN CAPISTRANO**

14 **Unpermitted Dredge and/or Fill Activities at the Arizona Crossing in**

15 **Violation of Sections 301(a) and 401 of the Clean Water Act.**

16 **33 U.S.C. § 1341, 1365(a) and 1365(f)**

17 218. Coastkeeper incorporates the allegations contained in the above paragraphs
 18 as though fully set forth herein.

19 219. Coastkeeper is informed, believes, and thereon alleges, that since at least
 20 March 31, 2012, the City has dredged and/or is discharging fill from the Arizona
 21 Crossing into waters of the United States without obtaining a Section 401 water quality
 22 certification from the Regional Board.

23 220. Coastkeeper is informed, believes, and thereon alleges, that the City's
 24 unpermitted discharge fill material is ongoing at the Arizona Crossing.

25 221. The City will continue to be in violation of the Clean Water Act each day it
 26 discharges fill or dredges San Juan Creek in order to replace, remove, or repair the
 27 Arizona Crossing without a Section 401 Certification.
 28

1 222. Each day that the City discharges fill material without obtaining a Section
2 401 Certification is a separate and distinct violation of Section 301(a) of the Clean Water
3 Act, 33 U.S.C. § 1311(a).

4 223. By committing the acts and omissions alleged above, Defendant is subject to
5 an assessment of civil penalties for each violation of the Act. *See* 33 U.S.C. §§ 1319(d),
6 1365, and 40 C.F.R. § 19.4 (Jan.15, 2017).

7 224. An action for injunctive relief under the Clean Water Act is authorized by 33
8 U.S.C. § 1365(a). Defendant is subject to an injunction ordering them to cease violating
9 the Clean Water Act.

10 225. Continuing commission of the acts and omissions alleged above will
11 irreparably harm Coastkeeper and its members, for which they have no plain, speed, or
12 adequate remedy at law.

13 WHEREFORE, Coastkeeper prays for judgment against Defendant City as set
14 forth hereafter.

15
16 **VII. RELIEF REQUESTED**

17 226. Wherefore, Plaintiff Coastkeeper respectfully requests that this Court grant
18 the following relief:

19 a. A court order declaring Defendants to have violated, and to be in
20 violation of, Section 301 of the Clean Water Act, 33 U.S.C. § 1311, for their failure to
21 obtain permit coverage as a Large CAFO.

22 b. In alternative to the relief requested in subparagraph (a), a court order
23 declaring Defendants to have violated, and to be in violation of, Section 301 of the
24 Clean Water Act, 33 U.S.C. § 1311, for failure to obtain permit coverage as a Medium
25 CAFO.

26 c. A court order declaring Defendants to have violated, and to be in
27 violation of, Section 301 of the Clean Water Act, 33 U.S.C.A. § 1311, for failure to
28 obtain permit coverage under the Industrial Storm Water Permit.

1 d. A court order declaring the City to have violated, and to be in
2 violation of, its MS4 Permits and Sections 301(a) and 402(p) of the Clean Water Act,
3 33 U.S.C. §§ 1311(a) and 1342(p), for discharging non-storm water;

4 e. A court order declaring the City to have violated, and to be in
5 violation of, its MS4 Permits and Sections 301(a) and 402(p) of the Clean Water Act,
6 33 U.S.C. § 1311(a) and 1342(p), for allowing discharges causing and contributing to
7 exceedances of water quality standards;

8 f. A court order declaring the City to have violated, and to be in
9 violation of, Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), for
10 engaging in dredge and fill activities at the Arizona Crossing without a Clean Water
11 Act Section 404 permit;

12 g. A court order declaring that Defendants have violated, and are in
13 violation of, Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), for
14 discharging dredged and fill material at the Riding Park without a 404 permit;

15 h. A court order declaring that Defendants have violated, and are in
16 violation of, Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), for
17 engaging in dredge and fill activities without a 401 Certification pursuant to the Act;

18 i. A court order permanently enjoining Defendants from discharging or
19 causing the discharge of dredged or fill material or other pollutants into any waters of
20 the United States except in compliance with a 404 permit;

21 j. A court order directing Defendants to undertake measures, at
22 Defendants' own expense and at the direction of the Regional Board and Army Corps,
23 to effect complete restoration of waters of the United States at the Riding Park and
24 Arizona Crossing and to conduct on-site and off-site mitigation for unauthorized
25 impacts to waters of the United States, as appropriate;

1 k. A court order assessing civil monetary penalties for each violation of
2 the Act at \$37,500 per day per violation for violations occurring from March 31, 2012
3 through November 2, 2015, and \$52,414 per day per violation for violations occurring
4 after November 2, 2015, as authorized by 33 U.S.C. § 1319(d) and Adjustment of
5 Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4 (Jan.15, 2017);

6 l. A court order awarding Plaintiff Coastkeeper its reasonable costs of
7 suit, including attorney, witness, expert, and consultant fees, as authorized by Section
8 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d); and

9 m. Any other relief as this Court may deem appropriate.

10
11 **VIII. DEMAND FOR JURY TRIAL**

12 Plaintiff Orange County Coastkeeper hereby requests a jury trial on all issues
13 raised in this Amended Complaint.
14

15
16 Dated: July 5, 2017

Respectfully submitted,

17
18 LAW OFFICE OF JENNIFER F. NOVAK

19 Jennifer F. Novak

20 Jennifer F. Novak
21 Attorney for Plaintiff
22 Orange County Coastkeeper
23
24
25
26
27
28

EXHIBIT A



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March 31, 2017

VIA CERTIFIED MAIL

Benjamin Siegel, City Manager
City Manager's Office
32400 Paseo Adelanto
San Juan Capistrano, CA 92675

Rebecca Ross, Registered Agent
Blenheim Facility Management, LLC
30753 La Pata Avenue
San Juan Capistrano, California 92675

Steve May, Director
Public Works Department
32400 Paseo Adelanto
San Juan Capistrano, CA 92675

Re: Notice of Violations and Intent to File Suit Under the Federal Water Pollution Control Act

Dear Mr. Siegel, Mr. May, and Ms. Ross:

I am writing this letter on behalf of Orange County Coastkeeper ("Coastkeeper") in regard to violations of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* ("Clean Water Act," or "CWA") and to invite you to contact me immediately to schedule a meeting and begin discussing solutions.

1. INTRODUCTION

The violations at issue are occurring on your property located at 27174 Ortega Highway, San Juan Capistrano, California 92675, known as the Rancho Mission Viejo Riding Park at San Juan Capistrano ("Riding Park" or "Facility"). Violations are also occurring in San Juan Creek, between the Riding Park and the Reata Park and Event Center ("Reata Park"), located at 28632 Ortega Highway, San Juan Capistrano, California 92675. Reata Park, the Riding Park and the area separating the two sites, herein after referred to as the "Arizona Crossing," are owned and/or controlled by the City of San Juan Capistrano ("City").

This notice of violations and intent to file suit ("Notice Letter") is being sent to you as the responsible owners and operators of the Riding Park, Reata Park, and the Arizona Crossing (hereinafter referred to collectively as "the Notice Recipients"). The purpose of this letter is to provide notice of the Notice Recipients' violations and to give notice that, after the expiration of sixty (60) days from the date of this letter, Coastkeeper intends to file a complaint regarding the

Notice of Violation and Intent to File Suit
 March 31, 2017
 2 of 16

violations of the Clean Water Act that are occurring at the Riding Park, Reata Park, and the Arizona Crossing properties.

In 2016, Coastkeeper received complaints from its members regarding illegal activities taking place in and around the Riding Park in San Juan Capistrano, California. In response to these reports, Coastkeeper conducted site investigations to determine the severity of the problem. On the site investigations, Coastkeeper observed that fill activity has taken place, and continues to take place, on the Riding Park property in and around the property's border with San Juan Creek. The Riding Park property at issue is one of several properties along a stretch of San Juan Creek southwest of the intersection of La Pata Avenue and Ortega Highway. San Juan Creek is impaired for pollutants, including those associated with activities occurring the Riding Park property and the type found in fill material deposited onsite, in violation of and without meeting the legal requirements of the Clean Water Act.

In addition to site inspections, Coastkeeper reviewed documents in the possession of the U.S. Army Corps of Engineers ("USACE") and the State of California, such as applications, permits, site reports, ownership deeds, and enforcement related documents. As described more fully below, Coastkeeper's investigations indicate an ongoing failure by the Notice Recipients to comply with the requirements of Section 404 of the Clean Water Act at the Riding Park, Reata Park, and Arizona Crossing properties. Individual examples of failure to comply with the requirements of the Clean Water Act as cited below are indicative but not exhaustive of activities, or failure to conduct necessary activities, occurring at the Riding Park property in violation of the Clean Water Act.

As set forth in this Notice Letter, observations made by Coastkeeper investigators on multiple occasions indicate that the Notice Recipients are and continue to be in violation of the Clean Water Act at the Riding Park, Reata Park, and Arizona Crossing properties. Generally, the property owners and/or operators have not obtained a Dredge and Fill Permit as required by Section 404 of the Clean Water Act, and have routinely discharged materials that are unsuitable for use as fill material into San Juan Creek. Each day that fill material has been discharged from the properties and remains in San Juan Creek constitutes a separate violation of Section 404 of the Clean Water Act.

In addition, this letter provides notice of the City's unlawful discharge of non-stormwater and stormwater pollution from the Riding Park property in violation of the *National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer System (MS4s) Draining the Watersheds within the San Diego Region*, Order No. R9-2013-0001, as amended by Order No. R9-2015-0001 and R9-2015-0100 ("MS4 Permit").

The MS4 Permit regulates discharges to and from San Juan Capistrano's municipal storm sewer system ("MS4"). Rivers, streams, and creeks in developed areas that use natural drainage patterns and features as conveyances for runoff are part of the City's MS4 regardless of whether they are natural, anthropogenic, or partially modified features. In those cases, the river, stream and creek

Notice of Violation and Intent to File Suit
 March 31, 2017
 3 of 16

in the developed areas are both an MS4 and receiving water.¹ The violations of the MS4 Permit alleged in this letter concern the City's failure to develop and implement the plans necessary to control storm water and non-stormwater into or from its MS4, failure to effectively prohibit discharges of non-stormwater into its MS4 system, and its failure to prevent discharges from its MS4 that cause or contribute to violations of water quality standards in area receiving waters.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action against any alleged violator under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen must give notice of her intent to sue to the discharger, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator for the EPA for the region in which such violation is alleged to have occurred, and the Chief Administrative Officer of the water pollution control agency for the State in which the violation is alleged to have occurred. 33 U.S.C. § 1365(b)(1)(A); 40 C.F.R. § 135.2(a)(1). This letter addresses at least 1,825 violations of Section 301 of the Clean Water Act, Section 404 of the Clean Water Act, and Section 401 of the Clean Water Act.

2. FACTUAL BACKGROUND

2.1.1. Orange County Coastkeeper

Orange County Coastkeeper ("Coastkeeper") is a nonprofit organization that promotes and restores water resources that are drinkable, fishable, swimmable, and sustainable. Coastkeeper is an environmental group organized as a non-profit corporation in accordance with the laws of the State of California. Coastkeeper's offices are located at 3151 Airway Avenue, Suite F-110, Costa Mesa, California 92626. Coastkeeper is dedicated to protection and preservation, conservation, and restoration of waters, marine habitats and watersheds, through research, education, community action and citizen enforcement. Coastkeeper actively seeks federal and state agency implementation of the Clean Water Act and, where necessary, initiates enforcement actions on behalf of itself and its members.

Coastkeeper and its individual members have an interest in the preservation and use of waters in and around San Juan Capistrano, including, but not limited to San Juan Creek, San Juan Creek Mouth, and their tributaries. Specifically, Coastkeeper's members sail, swim, picnic, fish, hike, surf, paddle, standup paddleboard, kayak, wade, bike, and enjoy the wildlife in and around these waters, including the reach at issue in this Notice Letter. The actions of the Notice Recipients individually, collectively, and in combination with the activities of other landowners adjacent to San Juan Creek, result in numerous injuries to Coastkeeper's interests, such as: loss, destruction or damage to wetlands and waterways; diminished aesthetic enjoyment; increased flooding; loss of open space and habitat for wildlife, including wading birds and federally protected species; degraded water quality; and diminished quality of life. The ability of Coastkeeper's members to engage in such activities and to use and enjoy San Juan Creek is harmed by Notice Recipients' activities.

¹ SD MS4 Permit, Finding 11.

Notice of Violation and Intent to File Suit
March 31, 2017
4 of 16

2.2. The City of San Juan Capistrano

The City of San Juan Capistrano (“the City”) is a municipality incorporated under the laws of the State of California. The Department of Public Works & Engineering (“Department”) is a department of the City. The City and its Departments have offices at 32400 Paseo Adelanto, San Juan Capistrano, CA 92675. The Department’s current Director is Steve W. May. The City’s current City Manager is Benjamin Siegel. City and/or the Department are the owner(s) and/or operator(s) of the City’s MS4 and collection system.

The Clean Water Act provides that the owner of the land and operator of the land where operations are taking place is responsible for compliance with the provisions of the CWA. The Riding Park Property is located at 27147 Ortega Highway, San Juan Capistrano, California 92675. Information available to Coastkeeper indicates that the site’s Assessor Parcel Number (APN) is 125-172-24, comprises 68.46 acres, and is owned by the City. Reata Park is located at 28632 Ortega Highway, San Juan Capistrano, California 92675. Information available to Coastkeeper indicates the APN is 125-172-27, comprises approximately 12.5 acres, and is owned by the City. Information available to Coastkeeper indicates the Arizona Crossing property is located between San Juan Creek’s banks, bordered by Reata Park and the Riding Park. The property’s APN is 125-172-26, comprises 16.76 acres, and is owned by the City.

In 2010, the City acquired an approximately 116 acres currently referred to herein as the Riding Park. In November 2014, the City entered into an agreement with Blenheim Facilities Management, LLC (“Blenheim”) to provide management services for the Riding Park commencing on January 1, 2015. Under the terms of the Management Agreement, Blenheim manages approximately 70 acres of the Riding Park.

Pursuant to the terms of the Management Agreement, Blenheim’s management term terminated as of 11:59 p.m. on December 31, 2016. On December 6, 2016, the City authorized a month-to-month extension of the Management Agreement for 2017.

2.2.1. Blenheim Facility Management, LLC

Blenheim Facility Management, LLC is an active Delaware limited liability company with its principal place of business located at 30753 La Pata Avenue, San Juan Capistrano, California 92675. The registered agent for service of process is Rebecca Ross, located at 30753 La Pata Avenue, San Juan Capistrano, California 92675. Blenheim Facility Management, LLC is responsible for management of the Riding Park pursuant to the management agreement with the City of San Juan Capistrano entered into on November 18, 2014, and extended on December 6, 2016.

Accordingly, this Notice Letter is being sent to the City as the owner and operator of Reata Park and the Arizona Crossing, and the owner of the Riding Park. The Notice Letter is addressed to Blenheim as the operator of the Riding Park. Collectively, the City and Blenheim are the owner and/or operators of the properties and responsible parties under the Clean Water Act.

Notice of Violation and Intent to File Suit
 March 31, 2017
 5 of 16

2.2.2. San Juan Creek

San Juan Creek, the receiving water of the fill material, including sand, concrete, asphalt, corrugated metal pipes, rock, and other construction materials from the Riding Park and Reata Park properties, generally drains towards the south and west with its headwaters in the Santa Ana Mountains. The San Juan Creek watershed encompasses a drainage of approximately 176 square miles and extends from the Cleveland National Forest in the Santa Ana Mountains to the Pacific Ocean at Doheny State Beach near Dana Point Harbor.² The condition of San Juan Creek near the Riding Park and Reata Park is that of a large alluvial valley with an upper terrace dominated by oaks, and a lower, sycamore-dominated terrace with dynamic mulefat and willow communities.³ An entangling understory of shrubs, flowering plants, and vines provides sites for nesting, shelter and shade for many animals. Algae and mosses proliferate in the water and on rocks. Leaves swept into the current decompose, adding nutrients and organic matter to waterways. Insects thrive here and in turn provide an abundant food source for invertebrates, fish, and birds. (CCC Online Coastal Resources Guide: Streams.) This dynamic creek system promotes maintenance of a compositionally and structurally complex and diverse plant community.⁴ As San Juan Creek flows past Reata Park and the Riding Park it mostly consists of an urbanized mixed of commercial, residential, and industrial land uses.⁵

The San Juan Creek watershed extends along an East-West Axis and drains approximately 176 square miles. San Juan Creek meanders through a floodplain with topography typical of coastal creeks and floodplains in Orange County. San Juan Creek is a naturally intermittent stream that presently carries significantly increased flows due to year-round municipal and agricultural return flows and during significant rain events (as evidenced by the considerable flooding during the 2005 winter storms). Waters from San Juan Creek near Reata Park and the Riding Park continue through the City, discharging at the terminus of San Juan Creek at the San Juan Creek Mouth to the Pacific Ocean at Doheny Beach State Park.

Coastal creeks such as San Juan Creek are a precious resource. “On their way to the ocean, California’s coastal streams and rivers flow through the canyons and valleys of coastal mountains, linking forest, chaparral, scrubland, grassland, and marsh. Riparian woodlands develop along stream banks and floodplains, and coastal wetlands and estuaries form where the rivers enter the sea. Rivers transport nutrients, sediments, and oxygen through the watershed, and life flourishes in their path.” *California Coastal Commission's California Coastal Resource Guide*, at <http://ceres.ca.gov/ceres/calweb/coastal/streams.html> (“CCC Online Coastal Resource Guide: Streams”).

² U.S. Army Corps of Engineers, South Pacific Div., *Record of Decision for Revoking the Use of Selected Nationwide Permits within the San Juan Creek/Western San Mateo Creek Watersheds for the Special Area Management Plan Orange County, Cal.*, 1 (July 2010).

³ Smith, Daniel R., Klimas, C.V., U.S. Army Corps of Engineers, Los Angeles Dist., Reg. Branch, *Riparian Ecosystem Restoration Plan for San Juan Creek and Western San Mateo Creek Watersheds: General Design Criteria and Site Selection*, 24 (Aug. 2004).

⁴ *Id.* at 16.

⁵ *Fn 1.*

Notice of Violation and Intent to File Suit
 March 31, 2017
 6 of 16

In addition, coastal streams such as San Juan Creek serve several important ecological functions including trapping of excess sediment and storing and transforming excess organic matter, preventing it from reaching downstream waters. *Where Rivers Are Born: The Scientific Imperative for Defending Small Streams and Wetlands*, Sierra Club (September 2003) available at http://www.sierraclub.org/cleanwater/reports_factsheets/. Upstream waters, such as San Juan Creek, where more water makes direct contact with the stream bed, help remove excess nutrients in the water – a problem often associated with urban development and the use of fertilizers on lawns and gardens. The channel shape of coastal streams further facilitates that sequestration and transformation of organic material and sediment.

Coastal streams and the adjacent estuarine and riparian habitats throughout California also support a wide variety of flora and fauna, including endangered species such as the Pacific pocket mouse, the Southern California Coast Steelhead, the Quino checkerspot butterfly, the southwestern willow flycatcher, and many other species. Portions of San Juan Creek have specifically been identified as critical habitat for a Southern California Coast Steelhead Biogeographic Population Group (“BPG”). The National Marine Fisheries Service’s species Recovery Plan identified threats to Southern California Coast Steelhead DPS restoration efforts in San Juan Creek and concluded culverts were a “very high threat,” and that dams, surface water diversions, and roads are “medium threat” sources.⁶ Physical modification of road crossings between estuary and upstream spawning and rearing habitats and the passage of smolts and kelts downstream to the estuary and ocean are specifically identified critical recovery actions for San Juan Creek’s Santa Catalina Gulf Coast BPG of Southern California Steelhead.⁷

San Juan Creek is designated a principal stream system in the San Diego Regional Water Quality Control Board’s Water Quality Control Plan (“Basin Plan”). Pursuant to its authority over designated water bodies, the Regional Board has designated several beneficial uses for San Juan Creek and the water bodies into which they drain.⁸ Beneficial uses are intended to represent the purposes of the water body that are specifically protected by the Clean Water Act. When those uses are not attained, the Regional Board designates the water body as impaired under Section 303(d) of the Clean Water Act. In this regard, the receiving waters of pollution from the Riding Park and Reata Park areas are impaired. The waters of San Juan Creek downstream of the Riding Park and Reata Park are listed under Section 303(d) as impaired for pollutants including, but not limited to, Indicator Bacteria, Phosphorus, Total Nitrogen as N, Toxicity, DDE, and Selenium. Overall, the San Juan Creek watershed is highly impaired. Thus, the discharge of stormwater carrying the byproducts of the facility, including horse waste, bedding material, feed, metals, trash, and other materials are contributing to, and threatening, San Juan Creek, and downstream receiving waters. Similarly, the illegal discharge of non-stormwater, including manure, sediment and other fill material, construction

⁶ National Marine Fisheries Service – Southwest Regional Office, *Southern California Steelhead Recovery Plan Summary*, 18 (Jan. 2012).

⁷ National Marine Fisheries Service, *Southern California Steelhead Recovery Plan*, Table 13-3, 13-20 (Jan. 2012).

⁸ According to the Basin Plan, San Juan Creek’s existing beneficial uses include: agricultural supply, industrial service supply, contact water recreation, non-contact water recreation, warm freshwater habitat, cold freshwater habitat, wildlife habitat. Likewise, the beneficial uses on the San Juan Creek Mouth, where San Juan Creek meets the Pacific Ocean, includes contact water recreation, non-contact water recreation, wildlife habitat, rare, threatened, or endangered species, marine habitat, migration of aquatic organisms, and shellfish harvesting. *Water Quality Control Plan, San Diego Region*, Regional Water Quality Control Board, San Diego Region, Tables 2-2, 2-3 (updated May 17, 2016).

Notice of Violation and Intent to File Suit
 March 31, 2017
 7 of 16

wastes, debris, and other material into San Juan Creek contributes to the impairment of the receiving waters.

San Juan Creek is a water of the United States as defined in the Clean Water Act. The USACE defines water of the United States as all waters which are currently used in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide, which are used for, among other purposes, the harvesting of fish sold in interstate commerce. 33 C.F.R. § 328.3(a)(1)(i). Waters tributary to these waters are also waters of the United States. *See* 33 C.F.R. § 328.3(a)(5). The waters of the Pacific Ocean at San Juan Creek Mouth are subject to the ebb and flow of the tides. San Juan Creek is tributary to the San Juan Creek Mouth. Therefore, San Juan Creek is a water of the United States.

3. LEGAL BACKGROUND

3.1.1. MS4 Permit

The City owns and operates a municipal separate storm sewer system (“City MS4”). An MS4 is defined as “a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains”) owned or operated by a state, city, or town that is designed or used for collecting or conveying storm water and that discharges to waters of the United States. *See* 40 C.F.R. § 122.26(b)(8)(i)-(ii); *see also* 40 C.F.R. § 122.26(b)(18).

Clean Water Act Section 402(p), 33 U.S.C. § 1342(p), establishes a framework for regulating municipal separate stormwater discharges under NPDES permits. Section 402(p) of the CWA requires an NPDES permit for stormwater discharges from an MS4 to waters of the United States. Section 402(p)(3)(B) sets forth the requirements that must be in all NPDES permits for storm water discharges from MS4s, including the obligation to effectively prohibit non-storm water discharges into MS4s, and require controls to reduce the discharge of pollutants in stormwater to the maximum extent practicable (“MEP”)⁹, and to require other provisions as the Regional Board determines are appropriate to control such pollutants. 33 U.S.C. § 1342(p)(3)(B), *see also* MS4 Permit, Finding 3.

The City is among thirty-eight municipal entities, twelve in Orange County, that have joined together and sought coverage for their municipal storm water discharges under the MS4 Permit. Along with the County of Orange, Orange County Flood Control District, and the cities of Aliso Viejo, Dana Point, Laguna Beach, Laguna Hills, Laguna Niguel, Mission Viejo, Rancho Santa Margarita, San Clemente, and Laguna Woods, the City submitted a National Pollutant Discharge Elimination System (“NPDES”) permit application and was granted an NPDES permit on July 16,

⁹ For purpose of the application of the MEP standard, the MS4 Permit emphasizes: “Non-storm water discharges from the MS4s are not considered storm water discharges and therefore are not subject to the MEP standard of CWA section 402(p)(3)(B)(iii), which is explicitly for ‘Municipal...*Stormwater Discharges* (emphasis added)’ from the MS4s. Pursuant to CWA 402(p)(3)(B)(iii), non-storm water discharges into the MS4s must be effectively prohibited.” *See* MS4 Permit, Findings 15.

Notice of Violation and Intent to File Suit
 March 31, 2017
 8 of 16

1990, which was reissued in 2001. This was again reissued in January, 2007 and May 8, 2013. The Regional Board amended the 2013 permit and the City enrolled under the existing NPDES permit on February 11, 2015. The MS4 Permit allows Copermittees to discharge stormwater runoff from storm drains and other stormwater conveyances within their jurisdictions, subject to the Permit's terms and requirements. The City has jurisdiction over and/or maintenance responsibilities for the City's MS4.

Since 1990, Copermittees have been developing and implementing programs and BMPs designed and intended to effectively prohibit non-storm water discharges to the MS4s and control pollutants in storm water discharges from the MS4s to receiving waters.¹⁰ These programs are known as Jurisdictional Runoff Management Programs ("JRMP"). Each Copermittee is required to develop and implement a JRMP in accordance with the strategies identified in the Water Quality Improvement Plans.¹¹ The purpose of the JRMP is for the Copermittee to establish, maintain, and enforce adequate legal authority to control stormwater discharges and prohibit and eliminate all illicit discharges, including all non-storm water discharges.¹²

The City's JRMP must implement a program to actively detect and eliminate illicit discharges and improper disposal (non-storm water discharges) into the MS4, or otherwise require the discharger to apply for a separate NPDES permit.¹³ Federal law does not define "non-storm water," but federal regulations define "illicit discharge" as "any discharge to a [MS4] that is not composed entirely of storm water and that is not covered by an NPDES permit..."¹⁴ In order to actively detect and eliminate illicit discharges, the JRMP must include that the Copermittee: maintain an updated map of the MS4 system; use personnel and contractors to assist in identifying and reporting illicit discharges during their daily employment activities; promote and facilitate public reporting of illicit discharges; and implement practices and procedures to prevent, respond, contain and clean up any spills that may discharge into the MS4.¹⁵

Similarly, the MS4 permit prohibits the City from discharging from its MS4 "in a manner causing, or threatening to cause, a condition of pollution, contamination, or nuisance in receiving waters."¹⁶ Stormwater discharged from the Riding Park poses a threat to already-impaired receiving waters. By failing to control stormwater discharges, the Noticed Parties are causing, and contributing to, this ongoing threat. Runoff from horse paddocks and areas where horses urinate or defecate can pick up contaminants such as nutrients, organic matter, and pathogens, which then enter the Creek through runoff and seepage into its saturated zone. Failure to properly control this runoff can cause, or threaten to cause, constituents such as ammonia, nitrate, phosphorus, and salts to enter the receiving waters. Nutrients can lead to the accelerated growth of microalgae, thereby depleting

¹⁰ Fact Sheet/Technical Report for Order No R9-2013-0001, as amended by Order No. R9-02015-0001, and Order No. R9-2015-0100, at F-47.

¹¹ MS4 Permit, Prov. E.1

¹² *Id.*

¹³ *Id.* at 85.

¹⁴ MS4 Permit, F-39; *see also* 40 C.F.R. § 122.26(b)(2).

¹⁵ MS4 Permit, Prov. E.2

¹⁶ MS4 Permit, Prov. A.1

Notice of Violation and Intent to File Suit
March 31, 2017
9 of 16

oxygen levels available for aquatic species and plants. Constituents such as ammonia, nitrates, and salts can create a toxic aquatic environment for these species.

Therefore, federal law mandates that MS4 permits require management practices that will result in reducing storm water pollutants to the MEP and simultaneously require non-storm water discharges be effectively prohibited from entering the MS4. The goal of these prohibitions and limitations is to protect water quality and designated beneficial uses of waters of the state from adverse impacts caused or contributed to by MS4 discharges.¹⁷

3.1.2. 404 of the CWA

The discharge of fill material to waters of the United States and/or the removal of dredge material from a water of the United States is prohibited unless it is in compliance with Section 404(a), 33 U.S.C. § 1344(a), and Section 401(a)(1), 33 U.S.C. § 1341(a)(1), of the Clean Water Act. The USACE and the EPA have been granted joint authority to implement and manage the permitting of the discharge of fill materials into waters of the United States and the removal of dredge material from waters of the United States. The discharge of fill material to waters of the United States is prohibited unless the discharge is in compliance with Section 404(a) of the Clean Water Act, 33 U.S.C. § 1344(a). Pollutants are broadly defined in 33 U.S.C. § 1362(6) to include dredged material, rock, sand, and agricultural waste. The USACE and the EPA have been granted joint authority to implement and manage the permitting of the discharge of fill materials into waters of the United States. A discharger must obtain coverage under a Section 404 permit prior to the discharge of fill material. 33 U.S.C. § 301(a); Nationwide Permit (“NWP”) General Conditions, ¶ 13. The discharger must comply with the terms of the permit obtained. It is a violation of the terms of any Section 404 Permit to begin the activity prior to obtaining coverage.

Under the NWP program, the USACE has developed a general permit applicable for a variety of projects having minimal adverse impact on navigation or Waters of the United States. *See* 67 Fed. Reg. 2020-2095.

On July 19, 2010, the USACE revoked the use of selected NWPs¹⁸ for the San Juan Creek watershed and selected a Special Area Management Plan (“SAMP”) as the Agency Preferred Alternative. A SAMP is a:

plan authorized by the [USACE’s] Regulatory Division through a voluntary watershed-level planning process involving local landowners and public agencies that seek permit coverage under the Federal Clean Water Act (CWA) section 404 for

¹⁷ *Id.*

¹⁸ U.S. Army Corps of Engineers, South Pacific Division, *Record of Decision for Revoking the Use of Selected Nationwide Permits within the San Juan Creek/Western San Mateo Creek Watersheds for the Special Area Management Plan Orange County, California*, 2 (July 2010). 3. NWPs revoked in the SAMP Watersheds include: 03, 07, 12, 13, 14, 16, 17, 18, 19, 21, 25, 27, 29, 31, 33, 39, 40, 41, 42, 43, 44, 46, 49, and 50. The remaining 25 NWPs would apply to the SAMP Watersheds: 01, 02, 04, 05, 06, 08, 09, 10, 11, 15, 20, 22, 23, 24, 28, 30, 32, 34, 35, 36, 37, 38, 45, 47, and 48.

Notice of Violation and Intent to File Suit
March 31, 2017
10 of 16

future actions that discharge dredged or fill materials into jurisdictional waters of the United States (U.S.).¹⁹

The SAMP establishes an abbreviated permitting framework in the form of Regional General Permit Number 74 (“RGP 74”) for projects within selected jurisdictional waters of the United States, including San Juan Creek.²⁰ Along with new CWA Section 404 letters of permission procedures, RGP 74 streamlines the permitting process, but applicants must also comply with selected NWPs and any individual permits. The permittee must also comply with other Federal, state, or local authorizations as required by law, including CWA 401 water quality certifications from the San Diego Regional Board. Should a permittee become non-compliant with RGP 74’s permit conditions, USACE may suspend, revoke, or modify RGP 74’s authorization and assess administrative penalties.²¹ RGP 74 expired March 19, 2017.

3.1.3. 401 of the CWA

The discharge of dredged or fill material to waters of the United States is prohibited unless the discharge complies with all applicable requirements of the CWA. As described above, a prospective discharger must obtain coverage under a Section 404 permit to lawfully discharge dredged or fill material. To obtain a Section 404 permit, Section 401(a)(1) of the CWA, 33 U.S.C. § 1341(a)(1), requires that a discharger provide a water quality certification from the state in which the discharges occur. Discharges of dredged or fill material into waters of the United States are therefore prohibited without first obtaining a 401 certification. To obtain a 401 certification, the discharger would have to demonstrate the ability to meet a multitude of conditions similar to those required by a Section 404 permit, as discussed above.

Section 505 of the CWA, 33 U.S.C. § 1365, authorizes citizen enforcement for violations of any effluent standard or limitation in effect under the CWA, including the failure to obtain a 401 certification. 33 U.S.C. § 1365(f)(5).

4. VIOLATIONS

4.1. The City’s Violation of MS4 Permit Prohibitions

As discussed above, the MS4 Permit contains prohibitions and limitations on the discharge of pollutants into and from the City’s MS4.²² The goal of the prohibitions and limitations is to protect water quality and beneficial uses of the state’s waters from adverse impacts caused, or contributed to, by MS4 discharges. “This goal will be accomplished through the implementations of water

¹⁹ U.S. Army Corps of Engineers, South Pacific Division, *Record of Decision for Revoking the Use of Selected Nationwide Permits within the San Juan Creek/Western San Mateo Creek Watersheds for the Special Area Management Plan Orange County, California*, 2 (July 2010).

²⁰ U.S. Army Corps of Engineers, Los Angeles District, *Department of the Army Regional General Permit Number 74 for Maintenance Activities Within the Special Area Management Plan Areas In Orange County, California*, 3 (March 19, 2012).

²¹ *Id.* at 11.

²² MS4 Permit, Provision A.

Notice of Violation and Intent to File Suit
March 31, 2017
11 of 16

quality improvement strategies and runoff management programs that effectively prohibit non-storm water discharges into the MS4s[.]”

MS4 Permit Provision A.1.a prohibits the City from allowing discharges from MS4s “in a manner causing, or threatening to cause, a condition of pollution, contamination, or nuisance in receiving waters.” As noted above, the waters of San Juan Creek downstream of the Riding Park and Reata Park are listed under Section 303(d) as impaired for pollutants including, but not limited to, Indicator Bacteria, Phosphorus, Total Nitrogen as N, Toxicity, DDE, and Selenium. The City is, and has been, aware that the Site causes further impairments and poses continuing threats to the receiving water. The City led a task force to address threats to water quality from horse facilities, culminating in a June 2004 document entitled “Equestrian-Related Water Quality Best Management Practices” (“Task Force Document”). The Task Force Document noted that many of the “physical, biological and chemical properties” of manure, urine, bedding, and sediment “can be detrimental to water quality and can adversely affect human health and aquatic life in water bodies.”²³ The task force recommended management practices such as creating barriers or diverting runoff from wash racks and paddocks to waterways. It further suggested that trash and other material be kept well away from waterways, and that upslope sources of potential erosion be controlled to prevent sediment from leaving facilities. As described below, however, while the Notice Recipients have already been on notice that the Riding Park and other facilities require controls to reduce their adverse impacts to water quality, they have failed, and continue to fail, to meet their MS4 requirement to control their stormwater discharges.

MS4 Permit Provision A.1.b mandates “non-storm water discharges into MS4s are to be effectively prohibited, through the implementation of Provision E.2., unless such discharges are authorized by a separate NPDES permit.”²⁴ Discharge Prohibition 1.b. of the MS4 Permit requires that the City effectively prohibit discharges of non-storm water into the City’s MS4 by establishing a JRMP. The JRMP is the City’s plan to actively identify and eliminate all illicit discharges. Coastkeeper is informed and believes that the City of San Juan Capistrano has either failed to develop an adequate JRMP, or has failed to implement an adequate JRMP.

The MS4 Permit requires the City to prioritize investigations when pollutants identified as causing or contributing, or threatening to cause or contribute to impairments in water bodies on the 303(d) List and/or in environmentally sensitive areas (ESAs), located within its jurisdiction. Coastkeeper is informed and believes that the City was made aware of illicit discharges from wash racks for horses at Riding Park to the MS4 at least as early as August 5, 2016. Based upon direct observations by Coastkeeper personnel as recently as March 29, 2017, the wash racks continue to discharge into the San Juan Creek, thereby negatively impacting downstream beneficial uses on an ongoing basis.

There exist at least five “wash racks” at the Riding Park, all located immediately adjacent to the bank of the San Juan Creek. Some of the wash racks are within approximately ten to twenty feet of the bank. The wash racks, which are frequently used during events at the Riding Park, are

²³ “Equestrian-Related Water Quality Best Management Practices” (“Task Force Document”) at 5.

²⁴ *See also* 40 C.F.R. § 122.44.

Notice of Violation and Intent to File Suit
March 31, 2017
12 of 16

concrete slabs with short plywood walls around the base of the slabs, presumably to retain wash water and other matter from flowing directly into the Creek; however, the racks do not contain all of the wash water, manure, and other associated substances, which flow from the racks to the creek bank, and further seep into the bank from areas of uncontained waste water. While the Notice Recipients have attempted to implement containment systems, evidence shows that the systems do not adequately prevent non-stormwater discharges and that waste water and associated pollutants are routinely and frequently being discharged into the Creek and into downstream receiving waters.

The Riding Park also contributes massive amounts of sediment, fill material, trash, broken asphalt and concrete, and other non-stormwater into the Creek, as evidenced all along the streambed adjacent to the property. Coastkeeper believes that the Notice Recipients have been advised of these discharges on multiple occasions and that City representatives have observed evidence of the discharges. Despite knowing of these discharges, Notice Recipients have failed, and continue to fail, to identify the sources for the discharges, or to take action to prevent them.

Coastkeeper is further informed and believes that the City allows a maintenance area to operate on the Riding Park property. Coastkeeper is informed and believes that outdoor metal and woodworking activities routinely occur at the maintenance area without proper BMPs. Such activities may result in the discharge of metal pollutants such as copper, aluminum, zinc, iron, and other pollutants associated with those activities. In addition, heavy machinery, such as bulldozers and trucks, is routinely parked and operated on non-paved surfaces. These activities are associated with pollutants such as oil and grease, zinc, and copper. The City's failure to prevent pollutant discharges from these activities or obtain proper storm water permitting for these activities is an ongoing violation of the CWA.

Coastkeeper is also informed, and believes, that the City has allowed the discharge of material into San Juan Creek through the maintenance and use of the "Arizona Crossing" that connects the Riding Park to Reata Park and purports to be city-owned and maintained. As a result, sediment and other material has been discharged into the Creek and into receiving waters below. In addition, the City's failure to maintain the Arizona Crossing has resulted in the continued discharge of concrete, rebar, fill material and other pollutants from the now-abandoned structure to receiving waters below. The City's failure to restore the Creek following destruction of the Crossing has, and will continue to, impact the habitat and species downstream.

4.2. 404 and 401 Violations

As set forth in this Notice Letter, observations made by Coastkeeper investigators on multiple occasions indicate that the Notice Recipients are and continue to be in violation of the Clean Water Act at the Riding Park, Reata Park, and Arizona Crossing Properties. The Notice Recipients have engaged in filling activity within the bed and banks of San Juan Creek without obtaining the USACE Section 404 Permit, as required by Section 404 of the Clean Water Act ("404 Permit"). Moreover, Coastkeeper is informed that these filling activities have resulted in the loss or degradation of more than 0.1 acres of jurisdictional waters of the United States. The unpermitted discharges are composed of materials that are unsuitable for use as fill material, including, but not limited to, sheet metal, concrete blocks, corrugated metal pipes/culverts, uncompacted debris,

Notice of Violation and Intent to File Suit
March 31, 2017
13 of 16

asphalt, trash, and poured concrete. These materials constitute pollutants whose discharge cannot be lawfully performed or approved by USACE in conjunction with a properly issued Section 404 permit.

After discharging unpermitted fill materials onto the banks of San Juan Creek from the edge of the Riding Park, the Notice Recipients have not implemented appropriate erosion and sediment controls for the fill material discharges, nor have the Notice Recipients, to the maximum extent practicable, designed the fill to maintain downstream flow conditions. Fill material has been added to San Juan Creek's banks extending the graded area of the Riding Park beyond the parcel's boundaries. Coastkeeper is informed, believes and thereon alleges, the Riding Park owners and/or operators discharge fill material into San Juan Creek. Moreover, the filling activity in and around San Juan Creek has failed to avoid substantial disruption of the necessary life-cycle movements of species indigenous to the waterbody.

Coastkeeper is further informed and believes that the Notice Recipients have failed to obtain the required water quality certification from the Regional Board for its unpermitted filling activities within San Juan Creek, pursuant to Section 401 of the Clean Water Act ("401 Certification"). In order to obtain a Section 404 permit, Section 401(a)(1) of the CWA, 33 U.S.C. § 1341(a)(1), requires that a discharger provide a water quality certification from the State in which the discharges occur. Discharges of dredged or fill material into waters of the United States are therefore prohibited without first obtaining a 401 Certification. Further, California Code of Regulations, Title 23, Section 3859(a), provides the Regional Board with authority to issue or deny a 401 Certification, and to set conditions on its approval.

Coastkeeper's investigation reveals that the Notice Recipients have failed to obtain a 401 certification from the Regional Water Quality Control Board, San Diego Region ("Regional Board") for its activities at the Riding Park or Reata Park properties. The Notice Recipients' discharges of fill material into and drilling activities in waters of the United States without a 401 certification have put the Notice Recipients in continuous and ongoing violation of Section 301(a) of the Clean Water Act. 33 U.S.C. § 1311(a).

Even were the Notice Recipients to apply for a 401 certification, the Notice Recipients have not and could not obtain a Section 401 Certification pursuant to 33 U.S.C. § 1341(a) under these circumstances. In order to obtain a 401 certification, the Notice Recipients would have to demonstrate the ability to meet a multitude of conditions similar to those required by a Section 404 permit, as discussed above. As a result of the failure to obtain 401 certification, the Notice Recipients are and will continue to be in continuous and ongoing violation of the Clean Water Act. Every day that the Notice Recipients operate or continue to operate at the Properties without a 401 certification manifests a separate and distinct violation of the CWA; likewise, every day that unpermitted and/or unlawful dredged or fill materials remain on the Properties also constitutes a violation of the CWA. The Notice Recipients' violations will then continue each day dredging or filling continues in violation of the CWA, and for each day that unlawfully discharged fill materials remain on the Properties. The Notice Recipients are subject to monetary penalties for all violations of the Clean Water Act occurring within the past five (5) years from the date of this Notice Letter.

Notice of Violation and Intent to File Suit
March 31, 2017
14 of 16

The discharge of dredge and fill material has deleterious effects on the waterways of California. Filling of coastal streams, such as San Juan Creek, disrupts the quantity and availability of water in the stream and river system. *See Where Rivers Are Born*, Sierra Club, available at http://www.sierraclub.org/cleanwater/reports_factsheets/. In so doing, the important role that coastal streams play in protecting and maintaining water levels needed for everything, from fish to recreational uses, to commercial uses, is destroyed. When a stream is filled it loses its capacity to perform vital ecological services. Upon filling, a stream's capacity to trap excess sediment and prevent the sediment's disruption of downstream uses is impaired. The same is true of the capability of a stream to store and transform excess organic matter. This stream alteration also has the tendency to reduce the amount of direct contact the water has with the streambed and diminish the nutrient removal capacity of the stream. Overall, the discharge of fill material significantly disrupts the ecosystem of a stream, and as such, the Clean Water Act strictly regulates activity associated with dredging and filling. Moreover, filling a stream with construction wastes, including but not limited to sheet metal, corrugated metal pipes/culverts, concrete blocks, debris, dirt, sod, trash, asphalt, and other miscellaneous materials pollutes the aquatic ecosystem and causes or contributes to the degradation of waters of the United States and of the State, resulting in the deterioration of water quality and harm to aquatic species and their habitats.

5. CONCLUSION

In addition to the violations set forth above, this Notice Letter covers all violations of the Clean Water Act by the Notice Recipients as evidenced by information that becomes available to Coastkeeper after the date of this Notice Letter. Specifically, Coastkeeper puts the Notice Recipients on notice that it intends to include all violations of the CWA in its federal citizen enforcement suit.

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4 (1997), each separate violation of the Clean Water Act subjects the violator of a penalty of up to \$37,500.00 per day per violation for all Clean Water Act violations after January 12, 2009 and \$51,570.00 per day per violation for violations that occurred after November 2, 2015. In addition to civil penalties, Coastkeeper will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), and other such relief as is permitted by law. Lastly, Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), permits prevailing parties to recover costs and fees.

Coastkeeper has retained legal counsel to represent them in this matter. All communications concerning this notice should be addressed to:

Jennifer F. Novak
Law Office of Jennifer F. Novak
609 Deep Valley Drive #200
Rolling Hills Estates, California, 90274

Notice of Violation and Intent to File Suit
March 31, 2017
15 of 16

During the 60-day notice period, Coastkeeper would like to discuss effective remedies with the Notice Recipients to address the violations noted in this Notice. If the Notice Recipients wish to pursue such discussions, we suggest that it initiate those discussions immediately. At the close of the 60-day notice period, Coastkeeper intends to move forward with litigation to prevent ongoing violations of the Act.

Very truly yours,

A handwritten signature in black ink, appearing to read "Colin Kelly", written over a horizontal line.

Colin Kelly
Senior Staff Attorney
Orange County Coastkeeper

cc: (see attached service list)

Notice of Violation and Intent to File Suit
March 31, 2017
16 of 16

SERVICE LIST

Scott Pruitt
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Alexis Strauss
Acting Regional Administrator
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 94105

Col. Kirk E. Gibbs, District Commander
United States Army Corps of Engineers, Los
Angeles District
915 Wilshire Boulevard
Los Angeles, CA 90017

Thomas Howard
Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812

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

Jeff Sessions
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Benjamin Siegel, City Manager
City Manager's Office
32400 Paseo Adelanto
San Juan Capistrano, CA 92675

Steve May, Director
Public Works Department
32400 Paseo Adelanto
San Juan Capistrano, CA 92675

Rebecca Ross, Registered Agent
Blenheim Facility Management, LLC
30753 La Pata Avenue
San Juan Capistrano, California 92675

EXHIBIT B



ORANGE COUNTY
COASTKEEPER.

3151 Airway Avenue, Suite F-110
Costa Mesa, CA 92626
Phone 714-850-1965
www.coastkeeper.org

May 4, 2017

VIA CERTIFIED MAIL

Benjamin Siegel, City Manager
City Manager's Office
32400 Paseo Adelanto
San Juan Capistrano, CA 92675

Rebecca Ross, Registered Agent
Blenheim Facility Management, LLC
30753 La Pata Avenue
San Juan Capistrano, California 92675

Steve May, Director
Public Works Department
32400 Paseo Adelanto
San Juan Capistrano, CA 92675

Rebecca Ross, Registered Agent
Blenheim Facility Management, LLC
P.O. Box 639
San Juan Capistrano, California 92693

Re: Supplemental Notice of Violations and Intent to File Suit Under the Federal Water Pollution Control Act

Dear Mr. Siegel, Mr. May, and Ms. Ross:

This letter provides notice that Orange County Coastkeeper ("Coastkeeper") intends to file suit pursuant to Section 301(a) of the Federal Water Pollution Control Act ("Clean Water Act," or "CWA"), 33 U.S.C.A. § 1311, against the City of San Juan Capistrano ("City") and Blenheim Facility Management, LLC ("Blenheim") for violating the CWA with regard to unpermitted discharges of pollutants from a point source into waters of the United States.

By letter dated March 31, 2017, and herein incorporated by reference, Coastkeeper notified the City and Blenheim of its intent to sue for CWA violations related to the City's MS4 permit and unpermitted dredge and fill activities in San Juan Creek. This supplemental notice concerns additional CWA violations of which Coastkeeper has become aware. Substantial portions of this letter mirror the March 31, 2017 Notice Letter ("First Notice Letter"). This notice of intent to file suit contains separate and distinct violations not contained in the First Notice Letter.

1. INTRODUCTION

The violations at issue are occurring on the City's property located at 27174 Ortega Highway, San Juan Capistrano, California 92675, known as the Rancho Mission Viejo Riding Park at San Juan Capistrano ("Riding Park" or "Facility"). The Riding Park is owned by the City and managed by Blenheim.

This supplemental notice of violations and intent to file suit ("Supplemental Notice Letter") is being sent to you as the responsible owners and operators of the Riding Park (hereinafter referred to collectively as "the Notice Recipients"). The purpose of this letter is to provide notice of the Notice Recipients' CWA violations and to give notice that, after the expiration of sixty (60) days from the date

Supplemental Notice of Violation and Intent to File Suit
 May 4, 2017
 Page 2 of 15

of this letter, Coastkeeper intends to file a complaint regarding the violations of the Clean Water Act that are occurring at the Riding Park.

In 2016, Coastkeeper received complaints from its members regarding illegal activities taking place in and around the Riding Park in San Juan Capistrano, California. In response to these reports, Coastkeeper conducted an investigation to determine the severity of the problem. During the course of our investigation, Coastkeeper confirmed the Riding Park has more than 500 horses present for more than 45 days per year. Coastkeeper is informed and believes that approximately 2,500 horses circulated through the Riding Park between March 20, 2017 and April 15, 2017. Facilities with more than 500 horses for more than 45 days in a 12 month period are classified as Concentrated Animal Feeding Operations ("CAFOs"). 40 C.F.R. § 122.23. CAFOs are point sources under the CWA. 33 U.S.C.A. § 1362. As point sources, CAFOs may not discharge pollutants to waters of the United States except in compliance with an NPDES permit. 33 U.S.C. § 1311(a). Failure of the Notice Recipients to obtain an NPDES permit for the Riding Park is a violation of Section 301 of the CWA. *See* 40 C.F.R. § 122.21(c)(1).

Horse CAFOs produce a substantial amount of pollutants including manure, bedding, and process wastewater from the horse wash racks. Such animal waste and process wastewater discharged from the Riding Park are and/or contain "pollutants," as defined in CWA Section 502(6), 33 U.S.C.A. § 1362(6) and 40 C.F.R. § 122.2. Manure contains high levels of phosphorus and nitrogen. As a result of unlawful discharges to San Juan Creek, unlawful land application of process wastewater, and stormwater runoff from areas where horse waste is stored, the Notice Recipients have caused and continue to cause discharge of animal waste, nitrates, nitrites, nitrogen, ammonia, phosphorus, bacteria and endotoxin, sulfate and other pollutants into waters of the United States, resulting in substantial harm to public health, welfare and the environment. San Juan Creek is a 303(d) listed impaired water body for several pollutants known to be present at the Riding Park, including phosphorus and nitrogen. Unpermitted discharges from the Riding Park cause and contribute to the impairment of San Juan Creek.

In addition to pollutants typically associated with CAFOs, Coastkeeper is informed and believes that trash and debris are discharged from the Riding Park into waters of the United States. Multiple site investigations reveal ongoing discharges of large trash items, such as feed bags, plastic cups, plastic plant containers, and equestrian medicine applicators into San Juan Creek. In addition to large trash items, the Riding Park is also discharging small, particulate trash from the footing used in the dressage/event rings of the Riding Park. Footing is used in the equestrian event rings to provide cushion for the horses to prevent bone and joint injury. Coastkeeper is informed and believes that the footing used at the Riding Park is a combination of sand, recycled rubber shoes, and other unknown synthetic textiles. Therefore, footing qualifies as a pollutant. During its investigation, Coastkeeper observed footing tracked outside of the event rings and into waters of the United States, and in areas prone to flooding into waters of the United States, a continuous discharge of footing into waters of the United States. These individual examples of failure to comply with the requirements of the Clean Water Act, and those referenced below, are indicative but not exhaustive of activities, or failure to conduct necessary activities, occurring at the Riding Park property in violation of the Clean Water Act.

As set forth in this Supplemental Notice Letter, observations made by Coastkeeper investigators on multiple occasions indicate that the Notice Recipients are and continue to be in violation of the Clean Water Act. Generally, the property owners and/or operators have not obtained a CAFO permit

Supplemental Notice of Violation and Intent to File Suit
 May 4, 2017
 Page 3 of 15

pursuant to Section 402 of the Clean Water Act, 33 U.S.C.A. § 1342, and have routinely discharged pollutants into San Juan Creek. Each day that pollutants such as manure, process wastewater, trash, and logging are discharged constitutes a separate violation of Section 301 of the Clean Water Act, 33 U.S.C.A. § 1311.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action against any alleged violator under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen must give notice of her intent to sue to the discharger, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator for the EPA for the region in which such violation is alleged to have occurred, and the Chief Administrative Officer of the water pollution control agency for the State in which the violation is alleged to have occurred. 33 U.S.C. § 1365(b)(1)(A); 40 C.F.R. § 135.2(a)(1). This letter addresses at least 1,825 violations of Section 301 of the Clean Water Act, 33 U.S.C.A. § 1311.

2. FACTUAL BACKGROUND

2.1 Orange County Coastkeeper

Coastkeeper is a nonprofit organization that promotes and restores water resources that are drinkable, fishable, swimmable, and sustainable. Coastkeeper is an environmental group organized as a non-profit corporation in accordance with the laws of the State of California. Coastkeeper's offices are located at 3151 Airway Avenue, Suite F-110, Costa Mesa, California 92626. Coastkeeper is dedicated to protection and preservation, conservation, and restoration of waters, marine habitats and watersheds, through research, education, community action and citizen enforcement. Coastkeeper actively seeks federal and state agency implementation of the Clean Water Act and, where necessary, initiates enforcement actions on behalf of itself and its members.

Coastkeeper and its individual members have an interest in the preservation and use of waters in and around San Juan Capistrano, including, but not limited to the Pacific Ocean, San Juan Creek Mouth, San Juan Creek, and their tributaries. Specifically, Coastkeeper's members sail, swim, picnic, fish, hike, surf, paddle, standup paddleboard, kayak, wade, bike, and enjoy the wildlife in and around these waters, including the reach at issue in this Supplemental Notice Letter. The actions of the Notice Recipients individually, collectively, and in combination with the activities of other landowners adjacent to San Juan Creek, result in numerous injuries to Coastkeeper's interests, such as: loss, destruction or damage to wetlands and waterways; diminished aesthetic enjoyment; increased flooding; loss of open space and habitat for wildlife, including wading birds and federally protected species; degraded water quality; and diminished quality of life. The ability of Coastkeeper's members to engage in such activities and to use and enjoy San Juan Creek is harmed by Notice Recipients' activities.

2.2 The City of San Juan Capistrano

The City of San Juan Capistrano ("the City") is a municipality incorporated under the laws of the State of California. The Department of Public Works & Engineering ("Department") is a department of the City. The City and its Departments have offices at 32400 Pasco Adelanto, San Juan Capistrano, CA 92675. The Department's current Director is Steve W. May. The City's current City Manager is Benjamin Siegel. City and/or the Department are the owner(s) and/or operator(s) of the Riding Park.

Supplemental Notice of Violation and Intent to File Suit
 May 4, 2017
 Page 4 of 15

The Clean Water Act provides that the owner of the land and operator of the land where operations are taking place is responsible for compliance with the provisions of the CWA. The Riding Park Property is located at 27147 Ortega Highway, San Juan Capistrano, California 92675. Information available to Coastkeeper indicates that the site's Assessor Parcel Number (APN) is 125-172-24, comprises 68.46 acres, and is owned by the City.

In 2010, the City acquired approximately 116 acres currently referred to herein as the Riding Park. In November 2014, the City entered into an agreement with Blenheim Facilities Management, LLC ("Blenheim") to provide management services for the Riding Park commencing on January 1, 2015. Under the terms of the Management Agreement, Blenheim manages approximately 70 acres of the Riding Park.

Pursuant to the terms of the Management Agreement, Blenheim's management term terminated as of 11:59 p.m. on December 31, 2016. On December 6, 2016, the City authorized a month-to-month extension of the Management Agreement for 2017.

2.3 Blenheim Facility Management, LLC

Blenheim Facility Management, LLC is an active Delaware limited liability company with its principal place of business located at 30753 La Pata Avenue, San Juan Capistrano, California 92675. The registered agent for service of process is Rebecca Ross, located at 30753 La Pata Avenue, San Juan Capistrano, California 92675. Blenheim Facility Management, LLC is responsible for management of the Riding Park pursuant to the management agreement with the City of San Juan Capistrano entered into on November 18, 2014, and extended on December 6, 2016.

Blenheim Facility Management, LLC hosts multiple equestrian competitions and shows at the Riding Park throughout the year. Based on a "Notice of Intent to Comply with the Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region" submitted by Notice Recipients to the San Diego Regional Water Quality Control Board, there are 127 days where horses are present at the Riding Park. *See Exhibits A and B.* There are 58 days where over 500 horses are present at the Riding Park. *See Exhibits A and B.*

This Supplemental Notice Letter is being sent to the City as the owner the owner/operator of the Riding Park. The Supplemental Notice Letter is addressed to Blenheim as the operator of the Riding Park. Collectively, the City and Blenheim are the owner and/or operators of the property and responsible parties under the Clean Water Act.

2.4 San Juan Creek

San Juan Creek, the receiving water of the pollutants from the Riding Park generally drains towards the south and west with its headwaters in the Santa Ana Mountains. The San Juan Creek watershed encompasses a drainage of approximately 176 square miles and extends from the Cleveland National Forest in the Santa Ana Mountains to the Pacific Ocean at Doheny State Beach near Dana

Supplemental Notice of Violation and Intent to File Suit
 May 4, 2017
 Page 5 of 15

Point Harbor.¹ The condition of San Juan Creek near the Riding Park is that of a large alluvial valley with an upper terrace dominated by oaks, and a lower, sycamore-dominated terrace with dynamic mulfat and willow communities.² An entangling understory of shrubs, flowering plants, and vines provides sites for nesting, shelter and shade for many animals. Algae and mosses proliferate in the water and on rocks. Leaves swept into the current decompose, adding nutrients and organic matter to waterways. Insects thrive here and in turn provide an abundant food source for invertebrates, fish, and birds. (CCC Online Coastal Resources Guide: Streams.) This dynamic creek system promotes maintenance of a compositionally and structurally complex and diverse plant community.³ As San Juan Creek flows past the Riding Park it mostly consists of an urbanized mixed of commercial, residential, and industrial land uses.⁴

The San Juan Creek watershed extends along an East-West Axis and drains approximately 176 square miles. San Juan Creek meanders through a floodplain with topography typical of coastal creeks and floodplains in Orange County. San Juan Creek is a naturally intermittent stream that presently carries significantly increased flows due to year-round municipal and agricultural return flows and during significant rain events (as evidenced by the considerable flooding during the 2005 winter storms). Waters from San Juan Creek near the Riding Park continue through the City, discharging at the terminus of San Juan Creek at the San Juan Creek Mouth to the Pacific Ocean at Doheny Beach State Park.

Coastal creeks such as San Juan Creek are a precious resource. "On their way to the ocean, California's coastal streams and rivers flow through the canyons and valleys of coastal mountains, linking forest, chaparral, scrubland, grassland, and marsh. Riparian woodlands develop along stream banks and floodplains, and coastal wetlands and estuaries form where the rivers enter the sea. Rivers transport nutrients, sediments, and oxygen through the watershed, and life flourishes in their path." *California Coastal Commission's California Coastal Resource Guide*, at <http://ceres.ca.gov/ceres/calweb/coastal/streams.html> ("CCC Online Coastal Resource Guide: Streams").

In addition, coastal streams such as San Juan Creek serve several important ecological functions including trapping of excess sediment and storing and transforming excess organic matter, preventing it from reaching downstream waters. *Where Rivers Are Born: The Scientific Imperative for Defending Small Streams and Wetlands*, Sierra Club (September 2003) available at http://www.sierraclub.org/cleanwater/reports_factsheets/. Upstream waters, such as San Juan Creek, where more water makes direct contact with the stream bed, help remove excess nutrients in the water – a problem often associated with urban development and the use of fertilizers on lawns and gardens. The channel shape of coastal streams further facilitates that sequestration and transformation of organic material and sediment.

¹ U.S. Army Corps of Engineers, South Pacific Div., *Record of Decision for Revoking the Use of Selected Nationwide Permits within the San Juan Creek/Western San Mateo Creek Watersheds for the Special Area Management Plan Orange County, Cal.*, 1 (July 2010).

² Smith, Daniel R., Klimas, C.V., U.S. Army Corps of Engineers, Los Angeles Dist., Reg. Branch, *Riparian Ecosystem Restoration Plan for San Juan Creek and Western San Mateo Creek Watershed: General Design Criteria and Site Selection*, 24 (Aug. 2004).

³ *Id.* at 16.

⁴ *Supra*, in 2.

Supplemental Notice of Violation and Intent to File Suit
 May 4, 2017
 Page 6 of 15

Coastal streams and the adjacent estuarine and riparian habitats throughout California also support a wide variety of flora and fauna, including endangered species such as the Pacific pocket mouse, the Southern California Coast Steelhead, the Quino checkerspot butterfly, the southwestern willow flycatcher, and many other species. Portions of San Juan Creek have specifically been identified as critical habitat for a Southern California Coast Steelhead Biogeographic Population Group ("BPG"). The National Marine Fisheries Service's species Recovery Plan identified threats to Southern California Coast Steelhead DPS restoration efforts in San Juan Creek and concluded culverts were a "very high threat," and that dams, surface water diversions, and roads are "medium threat" sources.⁵ Physical modification of road crossings between estuary and upstream spawning and rearing habitats and the passage of smolts and kelts downstream to the estuary and ocean are specifically identified critical recovery actions for San Juan Creek's Santa Catalina Gulf Coast BPG of Southern California Steelhead.⁶

San Juan Creek is designated a principal stream system in the San Diego Regional Water Quality Control Board's Water Quality Control Plan ("Basin Plan"). Pursuant to its authority over designated water bodies, the Regional Board has designated several beneficial uses for San Juan Creek and the water bodies into which they drain.⁷ Beneficial uses are intended to represent the purposes of the water body that are specifically protected by the Clean Water Act. When those uses are not attained, the Regional Board designates the water body as impaired under Section 303(d) of the Clean Water Act. In this regard, the receiving waters of pollution from the Riding Park area is impaired. The waters of San Juan Creek downstream of the Riding Park is listed under Section 303(d) as impaired for pollutants including, but not limited to, Indicator Bacteria, Phosphorus, Total Nitrogen as N, Toxicity, DDB, and Selenium. Overall, the San Juan Creek watershed is highly impaired. Thus, the discharge of stormwater carrying the byproducts of the facility, including horse waste, bedding material, feed, metals, trash, footing, and other materials are contributing to, and threatening, San Juan Creek and downstream receiving waters. Similarly, the illegal discharge of non-stormwater, including manure, footing, sediment and other fill material, construction wastes, debris, and other material into San Juan Creek contributes to the impairment of the receiving waters.

San Juan Creek is a water of the United States as defined in the Clean Water Act. The U.S. Army Corps of Engineers defines water of the United States as all waters which are currently used in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide, which are used for, among other purposes, the harvesting of fish sold in interstate commerce. 33 C.F.R. § 328.3(a)(1)(i). Waters tributary to these waters are also waters of the United States. *See* 33 C.F.R. § 328.3(a)(5). The waters of the Pacific Ocean at San Juan Creek Mouth are subject to the ebb and flow of the tides. San Juan Creek is tributary to the San Juan Creek Mouth. Therefore, San Juan Creek is a water of the United States.

⁵ National Marine Fisheries Service – Southwest Regional Office, *Southern California Steelhead Recovery Plan Summary*, 18 (Jan. 2012).

⁶ National Marine Fisheries Service, *Southern California Steelhead Recovery Plan*, Table 13-3, 13-20 (Jan. 2012).

⁷ According to the Basin Plan, San Juan Creek's existing beneficial uses include: agricultural supply, industrial service supply, contact water recreation, non-contact water recreation, warm freshwater habitat, cold freshwater habitat, wildlife habitat. Likewise, the beneficial uses on the San Juan Creek Mouth, where San Juan Creek meets the Pacific Ocean, includes contact water recreation, non-contact water recreation, wildlife habitat, rare, threatened, or endangered species, marine habitat, migration of aquatic organisms, and shellfish harvesting. *Water Quality Control Plan, San Diego Region*, Regional Water Quality Control Board, San Diego Region, Tables 2-2, 2-3 (updated May 17, 2016).

Supplemental Notice of Violation and Intent to File Suit
 May 4, 2017
 Page 7 of 15

3. LEGAL BACKGROUND OF CONCENTRATED ANIMAL FEEDING OPERATIONS

Section 301 of the CWA, 33 U.S.C.A. § 1311(a), prohibits the discharge of pollutants into waters of the United States by any person from a point source except in accordance with certain provisions under the CWA, including the requirement for a discharge to be authorized under Section 402, 33 U.S.C.A. § 1342. The CWA defines a point source as:

"[A]ny discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, **concentrated animal feeding operation**, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture." *Emphasis added.* 33 U.S.C.A. § 1362(14).

To be a concentrated animal feeding operation ("CAFO") the facility must meet a two part test. First, the facility must be an Animal Feeding Operation ("AFO"). An AFO is:

"[...] a lot or facility (other than an aquatic animal production facility) where the following conditions are met:
 (i) Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
 (ii) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility." 40 C.F.R. § 122.23.

The EPA considers an animal to be at the facility for a full day if it is at the facility for any portion of a day.⁸ This definition includes, for example, "dairy cows that are brought in from pasture for less than an hour to be milked are counted as being confined [...] for the day."⁹ Additionally, the 12-month period is any 12 month period and need not correspond with a calendar year.¹⁰ The EPA further clarifies that crops, vegetation, forage growth, or post-harvest residues does not include incidental growth on small portions of the confinement area.¹¹

Second, the facility must confine the necessary number and type of animals to be classified a CAFO. For horses, there must be 500 horses or more for the facility to be classified as a large CAFO. 40 C.F.R. 122.23(4)(vi). A facility is a medium CAFO if it has 150-499 horses and it either: (1) discharges "into waters of the United States through a man-made ditch, flushing system, or other similar man-made device"; or (2) "[p]ollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation." 40 C.F.R. § 122.23(6).

For facilities smaller than a medium CAFO, the EPA may designate any AFO as a CAFO if it determines that the AFO is a significant contributor of pollutants to waters of the United States. 40

⁸ NPDES Permit Writers' Manual for CAFOs. https://www.epa.gov/sites/production/files/2015-08/documents/cafo_permitmanual_chapter2.pdf. Accessed April 24, 2017.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

Supplemental Notice of Violation and Intent to File Suit
 May 4, 2017
 Page 8 of 15

C.F.R. § 122.23. In other words, regardless of the number of animals present at any given facility, the EPA may find that the facility is a significant contributor of pollutants and classify the CAFO as a CAFO in need of NPDES permitting coverage. Every discharge of pollutants from a CAFO into waters of the United States without a NPDES permit is a violation of Section 301 of the CWA, 33 U.S.C.A. § 1311.

The requirements of an NPDES permit for a CAFO are the same as those issued to other point sources. The CAFO permit must contain effluent limitations, monitoring and reporting requirements, record-keeping requirements, special conditions, and standard conditions to ensure the CAFO is complying with the CWA.¹² Like all NPDES permits, a CAFO permit must include technology-based effluent limitations ("TBELs"). However, a CAFO permit must also include more stringent water quality-based effluent limitations ("WQBELs") when such limitations are necessary to meet water quality standards when those standards are not being met. Additionally, all CAFO permits must include a requirement to implement a nutrient management plan ("NMP"), that at a minimum, contains best management practices necessary to meet enumerated requirements and applicable effluent limitations and standards. 40 C.F.R. § 122.42(c)(1). Those enumerated requirements include: (1) manure and process wastewater storage; (2) management of mortalities; (3) diversion of clean water from the production area; (4) prevention of direct contact of confined animals to waters of the United States; (5) chemical and contaminant management of manure, litter, process wastewater, storm water storage or treatment; (6) conservation practices; (7) protocols for testing manure, litter, process wastewater, and soil; (8) protocols for applying manure, litter, or process wastewater in accordance with the site-specific NMP; and (9) record keeping. *Id.* The terms of the NMP are enforceable effluent limitations that must be included in the permit.¹³

CAFOs are also subject to industrial stormwater permitting requirements of 40 C.F.R. § 122.26. This regulation requires operators of facilities subject to storm water permitting that discharge stormwater associated with industrial activities to obtain an NPDES permit.¹⁴ Large CAFOs, as defined in 40 C.F.R. §§ 122.23 and 412, are included as facilities considered engaged in industrial activity under 40 C.F.R. § 122.26(b)(14)(i).¹⁵ Consequently, large CAFOs are subject to regulation of storm water discharges under 40 C.F.R. § 122.26, regardless of whether they are subject to the CAFO requirements under part 122.23. *Id.* Industrial stormwater permit requirements apply to any stormwater discharges associated with industrial activity at a large CAFO that is not otherwise regulated under parts 122.23 and 412. *Id.* To clarify, portions of CAFOs which are not subject to CAFO permit requirements may still be subject to NPDES permit requirements if the CAFO discharges stormwater because CAFOs are defined in regulation as areas of industrial activity under the industrial stormwater permit.

The Stormwater Permit contains discharge prohibitions, effluent limitations, receiving water limitations, requirements for storm water pollution prevention plans ("SWPPPs"), monitoring and reporting programs ("M&RPs"), exceedance response actions ("ERAs") contingent on a facility's performance, and annual reporting requirements. Every discharge of stormwater from an area of

¹² NPDES Permit Writers' Manual for CAFOs, <https://www.epa.gov/npdes/npdes-permit-writers-manual-concentrated-animal-feeding-operations>, Ch. 4 (Last Accessed May 3, 2017).

¹³ *Waterkeeper Alliance v. EPA*, 399 F.3d 486, 502 (2d Cir. 2005).

¹⁴ National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001, Water Quality Order 2014-0057-DWQ (hereinafter referred to as "Stormwater Permit"), Finding 3.

¹⁵ *Supra* 16, at 4-19.

Supplemental Notice of Violation and Intent to File Suit
May 4, 2017
Page 9 of 15

industrial activity at a CAFO into waters of the United States without industrial stormwater permit coverage is a violation of Section 301 of the Clean Water Act, 33 U.S.C.A. § 1311.

Section 505 of the CWA, 33 U.S.C. § 1365, authorizes citizen enforcement for violations of any effluent standard or limitation in effect under the CWA, including the failure to obtain an NPDES permit. 33 U.S.C. § 1365(1)(5).

4. NOTICE RECIPIENTS' FAILURE TO OBTAIN A CAFO PERMIT

4.1. The Riding Park is a Large CAFO

The Riding Park meets the regulatory definition of an Animal Feeding Operation ("AFO"). An AFO is a facility where animals are confined and fed or maintained for a total of 45 days or more in a 12 month period where crops, vegetation, or forage growth are not maintained in the normal growing season. 40 C.F.R. § 122.23. Based upon information submitted by Notice Recipients in the "Notice of Intent to Comply with the Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region" (attached hereto as Exhibit A, hereinafter "NOI") submitted by Notice Recipients to the San Diego Regional Water Quality Control Board, in 2016 there were 127 days where horses were present at the Riding Park. There are no crops or forage growth maintained on the property where horses are permitted to graze. As is typical of an equestrian event center such as the Riding Park, horses are confined to stables when on the property. Thus, the Riding Park is an AFO.

Due to the number of horses present at the Riding Park during a 12-month period, the Riding Park also meets the regulatory definition of a large CAFO. As stated above, a large horse CAFO is an AFO with over 500 horses. 40 C.F.R. § 122.23(1)(vi). As reported by Notice Recipients in the NOI, there were 58 days where over 500 horses were present at the Riding Park. (Attached hereto as Exhibit B is an excel spreadsheet that calculates the number of days and number of horses reported by Notice Recipients in Exhibit A.) Based on information available to Coastkeeper, the number of horses reported in 2016 is representative of a typical year of equestrian events at the Riding Park. Thus, the Riding Park is a large CAFO.

Exhibit B illustrates that over the course of 127 days in 2016, there were 8,354 horses at the Riding Park. On the 58 days where more than 500 horses were present at the Riding Park, a total of 5,276 horses were at the Riding Park. The amount of manure and pollutants produced at the Riding Park is a substantial source pollution affecting water quality. Similar to other horse CAFOs, such as racetracks, the Riding Park generates a substantial amount of manure, bedding, and process wastewater, trash, feeding, and other pollutants. As a large CAFO, the Riding Park is considered a point source, subject to NPDES Permitting pursuant to Section 402 of the CWA, 33 U.S.C.A. § 1342.

Supplemental Notice of Violation and Intent to File Suit
May 4, 2017
Page 10 of 15

4.2. The Riding Park Does Not Have NPDES Permit Coverage

The Riding Park does not have the required NPDES permit coverage that would allow the facility to discharge pollutants pursuant to Section 402 of the CWA, 33 U.S.C.A. § 1342. Section 301 of the CWA, 33 U.S.C.A. § 1311, prohibits the discharge of a pollutant from a point source without a permit. The Riding Park is an AFO which confines greater than 500 horses on site for more than 45-days in a 12-month period. As such, the Riding Park is a large CAFO and, by definition, a point source. 33 U.S.C.A. § 1362. A CAFO must be covered by an NPDES permit at the time it discharges. 40 C.F.R. 122.23(f). In order to obtain authorization under an NPDES permit, the CAFO owner or operator must either apply for an individual NPDES permit or submit a notice of intent for coverage under an NPDES general permit. 40 C.F.R. § 122.23(d)(1). Coastkeeper's investigations failed to yield evidence of an individual CAFO permit for the Riding Park issued by the San Diego Regional Water Quality Control Board and the region has not adopted a NPDES general permit for CAFOs. The lack of a CAFO permit is further evidenced by the Notice Recipients' attempt to obtain Conditional Waiver of Waste Discharge Requirements coverage by filing an NOI for discharges from animal operations. Every day the Riding Park operates without a CAFO permit is a separate and distinct violation of Section 301 of the CWA, 33 U.S.C.A. § 1311.

4.3 Effluent Limitations Applicable to CAFOs

Pursuant to CWA Section 402, 33 U.S.C.A. § 1342, the state may issue an NPDES permit which authorizes the discharge of pollutants into navigable waters of the United States, upon the condition that such discharge will meet all applicable requirements of the CWA. If issued, the state is directed to prescribe conditions for NPDES permits to assure compliance with the requirements of the CWA, including conditions on data and information collection, reporting, and other such requirements as the state deems appropriate. Among the conditions and limitations prescribed in the NPDES permits issued under CWA Section 402(a), 33 U.S.C.A. § 1342(a), are effluent limitations. Effluent limitations, as defined in CWA Section 502(11), 33 U.S.C.A. § 1362(11), are restrictions on the quantity, rate, and concentration of chemical, physical, biological, and other constituents of wastewater discharges.

Section 301(b), 33 U.S.C.A. § 1311(b), requires that all NPDES point sources achieve compliance with TBELs. TBELs for CAFOs must address all discharges from a CAFO. 40 C.F.R. § 122.42(c). In general, CAFO permits include limits for process wastewater discharges from the CAFO's production area and land application area. For large horse CAFOs, production area TBELs prohibit all discharges of "process wastewater" to waters of the United States. 40 C.F.R. § 412.13(a). Process wastewater means water directly or indirectly used in operation of the AFO for activities including: washing, cleaning, or flushing AFO facilities; washing or spray cooling animals; dust control; or any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, or bedding. 40 C.F.R. § 122.23(b)(7); 40 C.F.R. § 412.2(d). The discharge of process wastewater is permissible only when rainfall events cause an overflow of process wastewater from a facility designed, constructed, operated, and maintained to contain all process generated wastewaters plus the runoff from a 25-year, 24 hour rainfall event at the location of the point source. 40 C.F.R. § 412.13(b). Coastkeeper is informed and believes, and thereon alleges, Notice Recipients' activities at the Riding Park resulted in the discharge of process wastewater to waters of the United States directly and indirectly from each onsite wash rack, as evidenced by photographs taken by Coastkeeper investigators on May 3, 2017. See Exhibit C. Further, Coastkeeper alleges the Riding Park discharges process

Supplemental Notice of Violation and Intent to File Suit
May 4, 2017
Page 11 of 15

wastewater during dry weather and wet weather events below a 25-year, 24-hour rainfall event, in violation of the TBEI.

Land application discharges from a CAFO are also subject to NPDES permitting, 40 C.F.R. § 122.23(c). The discharge of process wastewater to waters of the United States from a CAFO as a result of the application of process wastewater by the CAFO to land areas under its control is a discharge subject to NPDES permit requirements, except when applied in accordance with a site-specific NMP. *Id.* Coastkeeper is informed and believes, and thereon alleges, that Notice Recipients use process wastewater for dust control throughout the site and without a NMP. This process wastewater discharges to waters of the United States, specifically onsite jurisdictional waters, in violation of TBEIs and Section 301 of the Clean Water Act, 33 U.S.C.A. § 1311.

4.4. The Riding Park Discharges Pollutants into Waters of the United States

Coastkeeper is informed and believes that pollutants from the Riding Park have been and are continually discharged to San Juan Creek and onsite jurisdictional waters. Pollutants include but are not limited to horse manure, bedding, sediment, equine footing, trash, and other pollutants associated with equine operations. Coastkeeper is further informed that the Riding Park has stormwater and non-stormwater discharges of pollutants into San Juan Creek and jurisdictional waters are ongoing and continuous. During rain events, rain falls onto the Riding Park and runs through the stable and manure areas towards San Juan Creek. Stormwater comes into direct contact with manure and bedding from the stables, which have only dirt floors and temporary walls. Water then flows towards the southwest into San Juan Creek, taking along with it pollutants such as phosphorus, nitrogen, trash, and bacteria.

During the equestrian event season, pollutants are also discharged from the facility in dry weather. For example, process wastewater from the horse wash rack stations regularly escape the wash racks and the infiltration basin, eroding the creek bed and discharging process wastewater into the creek. Some wash racks are located no more than five feet from the creek bank. Other pollutants, such as plastic cups, food wrappers, plastic and glass bottles, paper plates, equine medicine applicators, feed bags, and other forms of trash blow into the creek or are deliberately dumped there by invitees of the Riding Park. Dumpsters are kept next to the creek and piled high with light trash, such as feed bags, enabling light breezes to carry trash to the creek. Coastkeeper's investigators have observed piles of manure and used bedding that have been pushed into the creek bank. Coastkeeper's investigators have also observed water trucks discharging process wastewater onto and near exhibition rings. We have observed and documented drains under the exhibition rings discharge into onsite jurisdictional waters during dry weather events. Coastkeeper is informed and believes that there are various other discharges of pollutants not specifically mentioned herein for which Notice Recipients are liable. Each discharge of a pollutant into waters of the United States without a CAFO permit is a violation of Section 301 of the CWA, 33 U.S.C.A. § 1311.

Supplemental Notice of Violation and Intent to File Suit
May 4, 2017
Page 12 of 15

5. NOTICE RECIPIENTS' FAILURE TO OBTAIN STORMWATER PERMIT COVERAGE

5.1 The Riding Park Includes Areas of Industrial Activities

In California, owners and/or operators of any facility with industrial activities described in Attachment A of the Stormwater Permit are required to obtain permit coverage prior to discharging to waters of the United States.¹⁶ Information available to Coastkeeper indicates the Riding Park includes at least one fenced building where industrial activities including metal welding, metal work and repair, waste and recyclable metal management, metal storage, and vehicle maintenance occur. Most, if not all, of the industrial activities occur outside and without significant cover. Some activities, including horse-related industrial activities involving metalwork, are performed at remote locations onsite away from the building. Pollutants associated with these activities, include but are not limited to: pH-affecting substances; metals, such as iron and aluminum; toxic metals, such as copper, lead and zinc; TSS; gasoline and diesel fuels; fuel additives; coolants; trash; specific conductance affecting substances; nitrate as nitrogen; and oil and grease. Coastkeeper is informed and believes, and thereon alleges, Notice Recipients are required to obtain Stormwater Permit coverage for those portions of the Riding Park where industrial activities described in Attachment A are taking place. Each discharge of pollutants from the Riding Park to waters of the United States without Stormwater Permit coverage is a violation of Section 301 of the Clean Water Act, 33 U.S.C.A. § 1311.

5.2 The Riding Park does not have Stormwater Permit Coverage

In California, the owners and/or operators of any facility that discharges storm water associated with industrial activities, as defined in 40 C.F.R. § 122.26, to waters of the United States must first obtain coverage under the Stormwater Permit. *See* 33 U.S.C.A. §§ 1311, 1342; 40 C.F.R. § 126.26(c)(1); Stormwater Permit, Discharge Prohibition A. The Stormwater Permit regulates industrial storm water discharges from specific categories of industrial facilities identified in Attachment A, which includes CAFOs. Stormwater Permit, Attachment A.1; 40 C.F.R. Part 412. Separate from the CAFO related industrial activities, the Riding Park's maintenance and metal repair activities are industrial activities covered under the Stormwater Permit. Consequently, since the Riding Park facility is a CAFO and engaged in industrial activities, the Notice Recipients must obtain coverage under the Stormwater Permit unless they are regulated by a separate individual or general NPDES permit. *See* 33 U.S.C.A. §§ 1311, 1342; 40 C.F.R. § 126.26(c)(1); Stormwater Permit, Discharge Prohibition A. Coastkeeper is informed and believes, and thereon alleges that the Riding Park has not been enrolled under the Stormwater Permit by the Notice Recipients. Information available to Coastkeeper indicates the Riding Park has illegally discharged storm water into waters of the United States during every measureable rain event since May 4, 2012. *See* Attachment D. Information available to Coastkeeper indicates the Riding Park continues to discharge non-stormwater from industrial areas. *See* Attachment C.

By failing to obtain Stormwater Permit coverage and comply with the requirements of the Stormwater Permit, including SWPPP and M&RP requirements, the Notice Recipients have violated the Stormwater Permit and the Clean Water Act. *See* 33 U.S.C.A. §§ 1311, 1342; 40 C.F.R. §§ 122.26(c)(1), 122.41(a); Water Quality Order No. 97 03-DWQ, Section C.1; Stormwater Permit, Standard Condition

¹⁶ Stormwater Permit, Finding 9.

Supplemental Notice of Violation and Intent to File Suit
May 4, 2017
Page 13 of 15

A. Discharges of non-stormwater and stormwater from areas of industrial activity to waters of the United States from the Riding Park are ongoing and continuous, having occurred since at least May 4, 2012, in violation of the Stormwater Permit and Section 301 of the Clean Water Act, 33 U.S.C.A. § 1311.

6. CONCLUSION

In addition to the violations set forth above, this Supplemental Notice Letter covers all violations of the Clean Water Act by the Notice Recipients as evidenced by information that becomes available to Coastkeeper after the date of this Supplemental Notice Letter. Specifically, Coastkeeper puts the Notice Recipients on notice that it intends to include all violations of the CWA in its federal citizen enforcement suit.

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4 (1997), each separate violation of the Clean Water Act subjects the violator of a penalty of up to \$37,500.00 per day per violation for all Clean Water Act violations after January 12, 2009 and \$51,570.00 per day per violation for violations that occurred after November 2, 2015. In addition to civil penalties, Coastkeeper will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), and other such relief as is permitted by law. Lastly, Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), permits prevailing parties to recover costs and fees.

Coastkeeper has retained legal counsel to represent them in this matter. All communications concerning this notice should be addressed to:

Jennifer F. Novak
Law Office of Jennifer F. Novak
500 Silver Spur Road, Suite 206
Rancho Palos Verdes, California, 90275

During the 60-day notice period, Coastkeeper would like to discuss effective remedies with the Notice Recipients to address the violations noted in this Supplemental Notice. If the Notice Recipients wish to pursue such discussions, we suggest that it initiate those discussions immediately. At the close of the 60-day notice period, Coastkeeper intends to move forward with litigation to prevent ongoing violations of the Act.

Supplemental Notice of Violation and Intent to File Suit
May 4, 2017
Page 14 of 15

Coastkeeper further intends to file its initial complaint at the end of the notice period for the First Notice Letter sent on March 31, 2017 for the claims noticed therein barring a settlement prior to that date. Coastkeeper will amend its complaint for the claims noticed herein at the end of the 60-day notice period.

Regards,



Colin Kelly
Senior Staff Attorney
Orange County Coastkeeper

cc: (see attached service list)

Supplemental Notice of Violation and Intent to File Suit
May 4, 2017
Page 15 of 15

SERVICE LIST

Scott Pruitt
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Alexis Strauss
Acting Regional Administrator
U.S. Environmental Protection Agency
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Col. Kirk E. Gibbs, District Commander
United States Army Corps of Engineers
Los Angeles District
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U.S. Department of Justice
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David W. Gibson
Executive Officer
Regional Water Quality Control Board
San Diego Region
2375 Northside Drive, Suite 100
San Diego, California 92108

Thomas Howard
Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812

EXHIBIT A

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION
ORDER NO. R9-2014-0041
(ATTACHMENT A)



NOTICE OF INTENT
TO COMPLY WITH THE CONDITIONAL WAIVERS OF WASTE DISCHARGE
REQUIREMENTS FOR LOW THREAT DISCHARGES IN THE SAN DIEGO REGION

I. PROPERTY/FACILITY INFORMATION

Property/Facility Name: Rancho Mission Viejo Riding Park at San Juan Capistrano			
Property/Facility Contact: Melissa Brandes, VP Operations and Marketing			
Property/Facility Address: 30753 La Pata Avenue			
City: San Juan Capistrano	County: Orange	State: CA	Zip: 92675
Telephone: 949-234-1695	Fax: N/A	Email: mellssbrandes@aol.com	
Assessor Parcel Number(s):		Hydrologic Area/Subarea: 901.28	

II. PROPERTY/FACILITY OWNER INFORMATION

Property/Facility Owner Name: City of San Juan Capistrano			
Property/Facility Owner Mailing Address: 32400 Paseo Adelanto			
City: San Juan Capistrano	County: Orange	State: CA	Zip: 92675
Telephone: 949-493-1171	Fax: N/A	Email: cview@sanjuancapistrano.org	

III. PROPERTY/FACILITY OPERATOR INFORMATION

Property/Facility Operator Name: Melissa Brandes, VP Operations and Marketing			
Mailing Address: PO Box 639			
City: San Juan Capistrano	County: Orange	State: CA	Zip: 92683
Telephone: 949-234-1695	Fax: N/A	Email: melissbrandes@aol.com	

IV. CONDITIONAL WAIVER FOR NOTICE OF INTENT

Mark (X) the waiver proposed for the discharge:

<input type="checkbox"/> Waiver No. 1 - Discharges from on-site graywater disposal systems
<input type="checkbox"/> Waiver No. 2 - Discharges of recycled water to land
<input type="checkbox"/> Waiver No. 3 - "Low" threat discharges to land
<input type="checkbox"/> Waiver No. 4 - Discharges of winery waste to lined evaporation ponds wineries
<input type="checkbox"/> Waiver No. 5 - Discharges of wastes at composting facilities
<input type="checkbox"/> Waiver No. 6 - Discharges from silvicultural operations
<input checked="" type="checkbox"/> Waiver No. 7 - Discharges from animal operations
<input type="checkbox"/> Waiver No. 8 - Discharges from aquatic animal production facilities
<input type="checkbox"/> Waiver No. 9 - Discharges of slurries to land
<input type="checkbox"/> Waiver No. 10 - Discharges/disposal of solid wastes to land
<input type="checkbox"/> Waiver No. 11 - Aerially discharged wastes over land
<input type="checkbox"/> Waiver No. 12 - Discharges of emergency/disaster related wastes

V. DESCRIPTION OF DISCHARGE

Describe the discharge (i.e., source(s) of discharge, pollutants of concern, period and frequency, etc.). Use additional pages as needed. Provide a map of the property/facility if necessary. See Additional Pages

NOTICE OF INTENT FOR CONDITIONAL WAIVERS

VI. DESCRIPTION OF MANAGEMENT MEASURES/BEST MANAGEMENT PRACTICES

Describe what management measures (MMs) and best management practices (BMPs) will be implemented to minimize or eliminate the discharge of pollutants to waters of the State. Use additional pages as needed. Provide a map of the property/facility showing locations of MMs/BMPs if necessary.

See Additional Pages

VII. ADDITIONAL INFORMATION

Please provide additional information, as needed or required, about the discharge and/or how the discharger intends to comply with the waiver conditions of the waiver. Use additional pages as needed.

See Additional Pages

VIII. CERTIFICATION

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Melissa Brandes

Signature (Owner or Authorized Representative)

2/28/17

Date

Melissa Brandes

Print Name

V.P. of Operations and Marketing

Title

949-212-8556

Telephone Number

mellssbrandes@aol.com

Email

Additional Pages for:

***Notice of Intent to Comply with the Conditional Waiver of Waste Discharge Requirements for
Low Threat Discharges in the San Diego Region.***

Rancho Mission Viejo Riding Park at San Juan Capistrano

V. Description of Discharge.

1. Facility Information.

The Rancho Mission Viejo (RMV) Riding Park at San Juan Capistrano (collectively "Riding Park") in the City of San Juan Capistrano is a short-term multi-use sports and exhibition facility. Activities within the Riding Park include youth and adult soccer, community outreach events, and equestrian shows.

An overview of the Riding Park and the land use practices within the park are shown in Figure 1-1. The Riding Park is 60.2 acres in size and the various land uses areas within the park are listed below in Table 1-1.

Table 1-1. Riding Park Land Uses and Areas (in acres).

Land Use	Area (acre)	Percent of Total Area
Multi-Sport Field	23.9	39.7%
Exhibition Arena	10.0	16.6%
Stables	9.9	16.4%
Parking Lot	9.0	15.0%
Storage Area	4.5	7.5%
Workshop and Offices	2.9	4.8%
Overall Riding Park	60.2	100%

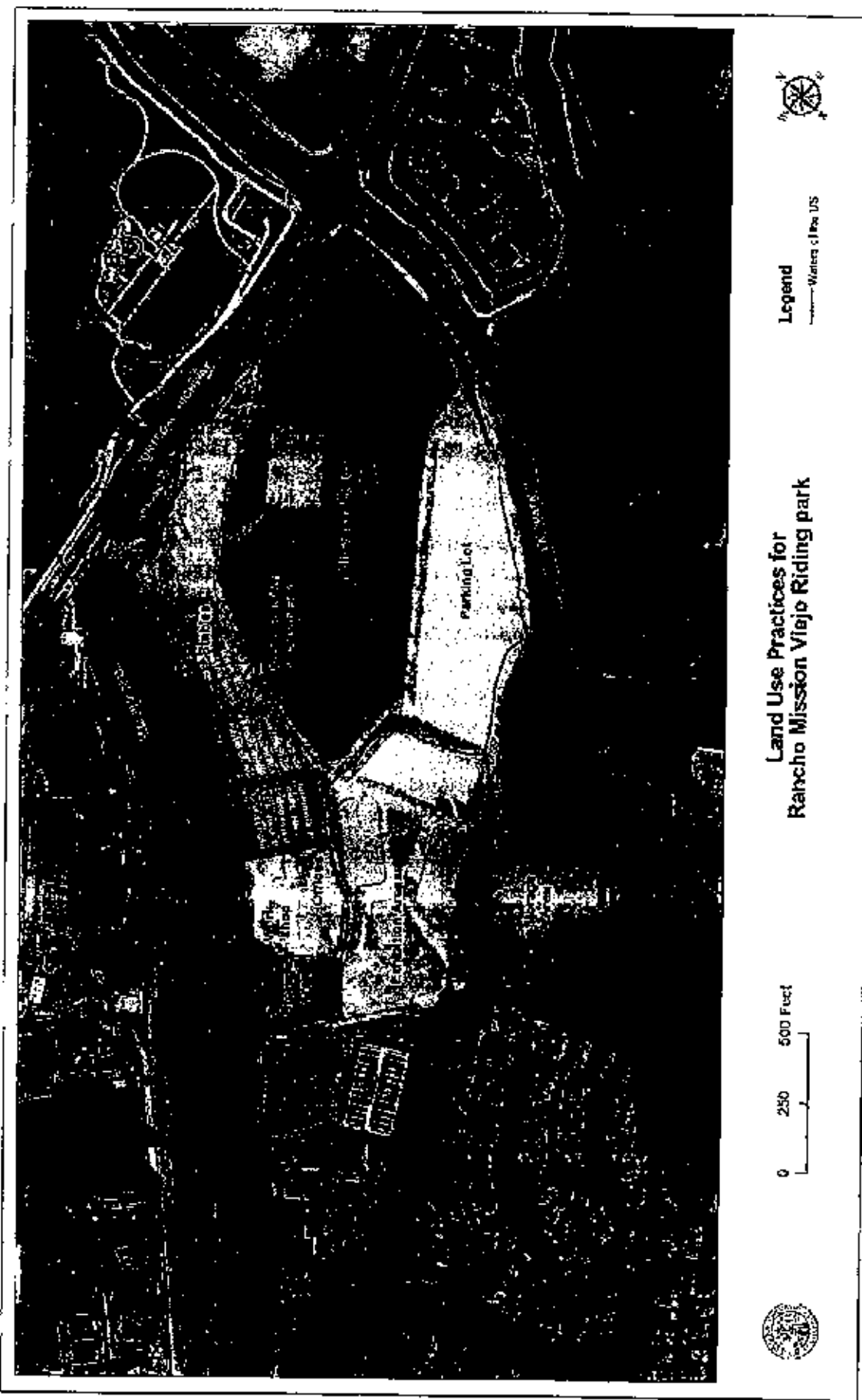
Note to Table 1-1. (%) means percent.

2. Sources of Discharge.

Discharge sources within the Riding Park include the following:

- a) Non-stormwater based discharges from the following sources:
 - Multi-Sport Field irrigation
 - Potable line (hose) connections to campers
 - Spills and leaks from Portable toilets
 - Equine (Horse) Wash Racks
 - Spills and leaks from onsite wastewater holding tank (office complex)
- b) Stormwater based discharges as a result of precipitation

Figure 1-1. Rancho Mission Viejo Riding Park Overview and Land Use Map.



RMV Riding Park at San Juan Capistrano
Conditional Waiver WDR Permit Add'l Pages
For the Waiver 7 Notice of Intent

3. Pollutants of Concern

a) Regulatory Listed Pollutants of Concern

The RMV Riding Park is located within the San Juan Creek watershed. San Juan Creek has an established TMDL for indicator bacteria, and the waterbody is listed on the 2010 Clean Water Act section 303(d) list for Total Nitrogen, Phosphorus, Organochlorine pesticides (DDP), Selenium, and Toxicity.

b) Period and Frequency of Pollutant Generating Activities

Soccer and community outreach events held at the Riding Park range in time from one (1) to seven (7) days in duration, as defined by the move-in until move-out date. The event dates and duration of each event are provided in Attachment 1 and the schedule is titled "Blenheim Facility Management Event Schedule."

Equestrian services provided at the Riding Park are limited to short-term stable rentals and exhibition arenas for events. The Riding Park provides "over-night" hotel-like accommodations and does not provide a continuous year-round type of boarding service as provided by a traditional equestrian facility. The Riding Park also does not provide any open fields suitable for grazing.

The Conditional Waiver Waste Discharge Requirement (WDR) permit includes two definitions of Animal Feeding Operations (AFO), based on year-round boarding of horses, as follows.

Table 3-1. Conditional Waiver WDR Allowed Annual Number of Horse-Days.

AFO Category	Allowed Days per Calendar Year	No. of Horses Boarded Per Day	Allowed Number of Horse-Days Per Year
Small AFO	365	299	109,135
Medium AFO	365	999	364,635

Notes to Table 3-1. AFO = Animal Feeding Operation. Horse-Days are defined as the number of horses present on site multiplied by the number of days each horse is present (# Horses X # Days = # Horse-Days). Leap year allowed limits are 109,434 horse-days for small sized AFOs and 365,634 horse-days for medium sized AFOs.

The Riding Park holds approximately twenty-five (25) events per year ranging in time from three (3) to eighteen (18) days in duration, as defined by the move-in until move-out date. The event dates and duration of each event are provided in Attachment 1 and the schedule is titled "Blenheim Facility Management Event Schedule.

A summary of the events, event dates, and the number of horses present at the park during calendar year 2016 is presented in Table 3-2.

Table 3-2. RMV Riding Park Equestrian Annual Schedule of Events and Number of Horses Present.

Event Title	Move-In Date	Move-Out Date	Number of Event Days	Horses Present	Horse Days
Orange County Interscholastic Eq League (IEL 7&8)	1/15/2016	1/17/2016	3	76	228
Blenheim Spring Classic I	3/21/2016	3/28/2016	8	290	2,320
Blenheim Spring Classic II	3/28/2016	4/4/2016	8	516	4,128
Dressage - Festival of the Horse (SP Spring Festival)	3/31/2016	4/2/2016	3	290	870
Blenheim Spring Classic III	4/4/2016	4/11/2016	8	766	6,128
Blenheim Spring Classic IV	4/11/2016	4/18/2016	8	704	5,632
Victory Horse Show #1	5/20/2016	5/22/2016	3	186	558
Blenheim June Classic I	6/6/2016	6/13/2016	8	810	6,477
Blenheim June Classic II	6/13/2016	6/20/2016	8	719	5,752
Blenheim June Classic III	6/20/2016	6/27/2016	8	612	4,896
Blenheim Red White & Blue Classic	6/27/2016	7/3/2016	7	364	2,548
Victory Horse Show #2	7/15/2016	7/17/2016	3	129	387
Robin Seifass/Victory III	8/5/2016	8/7/2016	3	160	480
Blenheim Summer Classic	8/15/2016	8/22/2016	8	491	3,928
Rancho Mission Viejo Rodeo*	8/22/2016	9/7/2016	2*	500	1,000
Victory Horse Show #4	9/9/2016	9/11/2016	3	105	315
Blenheim Fall Tournament	9/12/2016	9/19/2016	8	549	5,192
Blenheim Int. Jumping Festival	9/19/2016	9/26/2016	8	456	3,208
Victory Horse Show 5	9/30/2016	10/2/2016	3	83	249
Orange County Horse Show Association (OCHSA Finals)	10/10/2016	10/17/2016	8	235	1,880
OC Interscholastic Equest. League (IEL 1&2)	10/28/2016	10/30/2016	3	93	279
OC Interscholastic Equest. League (IEL 3&4)	11/18/2016	11/20/2016	3	85	255
OC Interscholastic Equest. League (IEL 5&6)	12/2/2016	12/4/2016	3	89	267
Anticipated Incidental Layover Stall Rentals			330	15	4,950
Total					66,927

Notes to Table 3-2. The Rancho Mission Viejo Rodeo is seventeen (17) days in duration to allow for stables, arenas, and other structural set ups. The actual number of days in which animals are present is two (2) days.

RMV Riding Park at San Juan Capistrano
Conditional Waiver WDR Permit Add'l Pages
For the Waiver 7 Notice of Intent

VI. Description of Management Measures and Best Management Practices

The pollutants of concern in the discharges to waters of the State are pathogens, coliform bacteria, nitrogen, and phosphorus. The Riding Park does not have activities or pollutant sources that generate organochlorine pesticides (DDT) or Selenium and the Riding Park is not a source of these pollutants. Toxicity is a surface water related issue in regards to the 303(d) listing for San Juan Creek and the Riding Park's discharges to the water of State are not relevant to the Toxicity listing.

The following sections describe the management measures (MM) and best management practices (BMP) intended to control and minimize the discharge of pathogens, coliform bacteria, nitrogen, and phosphorus. The following section focuses on MM/BMP measures for pathogens and coliform bacteria, but the MM/BMP measures are intended to equally apply to the other pollutants of concern listed in the preceding section.

a) Equine MM and BMPs

Equine related pollutant generating activities are limited to the Stables and the Exhibition Arena. The Exhibition Arena provide a location for shows and community events. Animal waste generated within the Exhibition Arena are removed immediately and the Riding Park does not hold events on rainy days. The information provided in this section of the application is in regards to the Stable area which is the primary pollutant generating area.

i. Equine Manure Management.

Equine manure management measures implemented for the Riding Park includes several practices which are:

- Manure and urine waste generated within the stalls are combined with bedding material to absorb the fluids created by the animals,
- Stalls are routinely mucked during events and generated waste are temporarily stored in metal roll-away bins provided by a locally contracted solid waste hauler, and
- The Riding Park maintains extra bins at all times to avoid overfilling and to provide waste collection bins at multiple locations throughout the park to help visitors avoid spilling waste on the ground.

An example of the metal construction based roll-away bins provided by CR&R solid waste management services is shown in the Figure 3-1w.

Figure 3-1. Example of Covered Roll-Away Temporary Storage Bin for Manure Management.



Note ramp at front indicating bins is elevated above the ground.

The contracted waste hauling service removes filled bins on an as-needed basis during events or the service will remove filled bins on an approximately seven (7) to fourteen (14) day rotation schedule, depending on the anticipated need for near-future events.

Equine manure waste generated during the storm season (October 1 to April 30) are stored in the roll-away bins that includes a plastic non-permeable cover. An example of a covered waste storage bins is shown in Figure 3-2.

Figure 3-2. Example of a Covered Roll-Away Temporary Manure Storage Bin during the Storm Season.



Storm event produced runoff flows paths observed at the Riding Park (see Section IV.b.ii) and filled temporary storage bins are located more than 100 linear feet from the nearest surface water body.

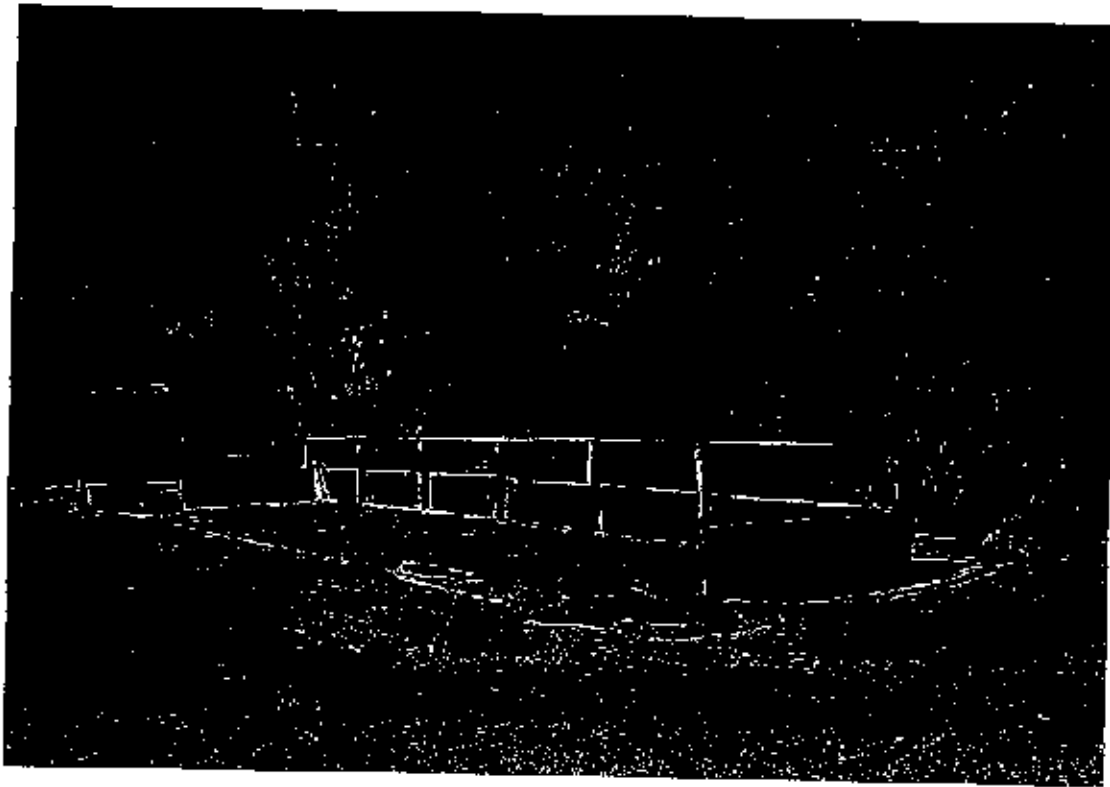
b) Equine-Related Non-Stormwater and Stormwater Best Management Practices.

1. Equine-Related Non-Stormwater BMPs.

The equine-related non-stormwater discharge elimination procedures implemented at the Riding Park focuses on best management practices for the wash racks. The implementation plan for the wash racks includes a plan for short-term and long-term structural BMPs.

An example of the equestrian facility wash racks is shown below in Figure 3-3.

Figure 3-3. Example of the Equine Wash Racks located at the RMV Riding Park.



The short-term BMP plan for managing non-stormwater discharges from the wash rack focuses on installation of 3,000 gallon storage tanks located at each wash station. The temporary storage tanks will be connected to the wash rack drainage inlets and wastewater generated onsite will be disposed into the sanitary sewer or re-applied onsite for dust control following treatment. Additional details on the design and operation of the wash rack holding tanks is provided in Attachment 2.

In the fall of 2017, the City of San Juan Capistrano intends to begin construction of a long-term structural BMP for capture wash rack discharges. The City of San Juan Capistrano Utilities Division is in the planning phases of a capital project to construct and install a sanitary sewer collection system pipeline on the Riding Park grounds. Wastewater flows generated within the Riding Park, including the wash racks, will be permanently routed into the City's sanitary sewer system once the pipeline construction project is completed. The temporary holding tanks will continue to be used for managing wash rack discharges until such time that the sanitary sewer connection is established.

ii. Equine-Related Stormwater Best Management Practices

A series of photographs shown in Figure 3-4 to 3-6 document the wet weather runoff patterns for the Riding Park.

Stables are covered to direct precipitation away from horses and to exclude precipitation from the stalls to eliminated potential discharges of manure. Earthen berms constructed along the foundation were designed to keep water out the stalls and to prevent potential stormwater related discharges of pathogens and coliform bacteria.

Stormwater runoff generated as a result of precipitation within the Stable area of the Riding Park either infiltrates into soil around the stables or excess runoff is directed towards the Multi-Sport Field as indicated by the photographs shown in Figure 3-4 to Figure 3-6.

Figure 3-4. Example of the RMV Riding Park Stables and Stormwater Runoff Control Practices. Earthen berms at the base of stable structures were installed to prohibit runoff from entering the stalls.



Figure 3-5. Example of the Riding Park Stables and Stormwater Runoff Control Practices.

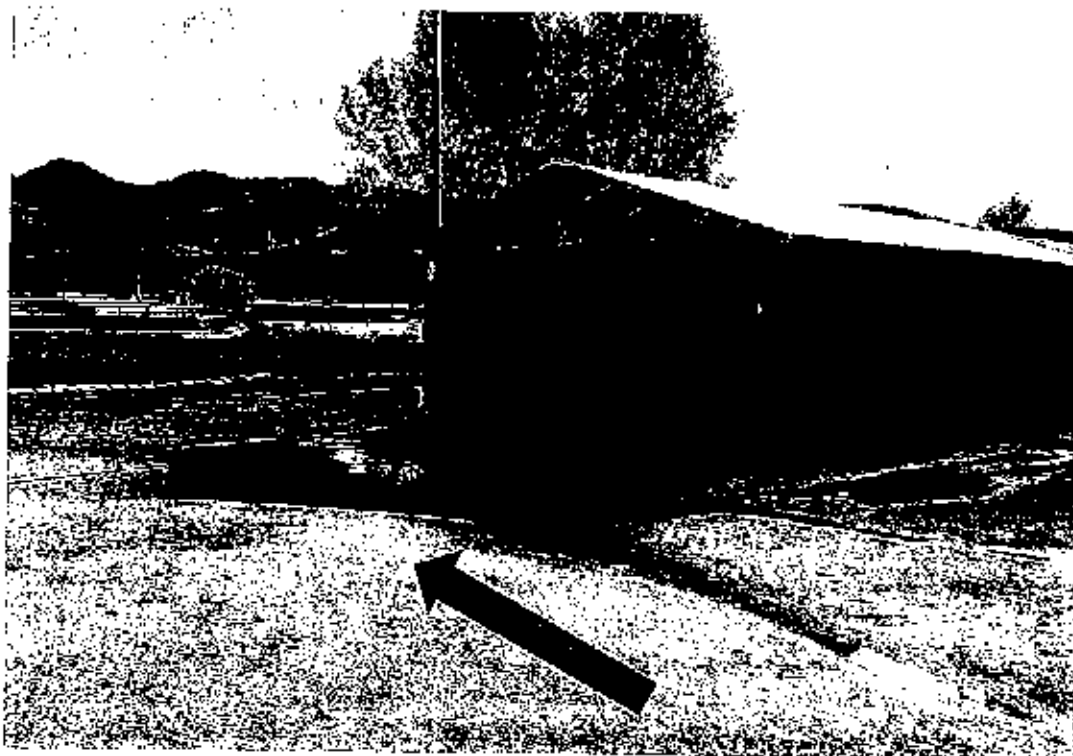


Figure 3-6. Example of the Riding Park Stables and Stormwater Runoff Management Practices.



Stormwater runoff collected within the Stable area between the stalls and San Juan Creek pools along the building structures and flows laterally towards the east and west end of the property as indicated in Figure 3-7.

The stable area currently has limited capacity to accommodate excess runoff as a result of high intensity rainfall or storm events persisting for an extended amount of time.

Beginning in the fall of 2017, the City of San Juan Capistrano intends to begin construction on the East Trail Extension Project. The purpose of the East Trail extension project is to provide a recreational trail for pedestrian, bicycle, and equestrian users. The trail extension design includes the construction and installation of stormwater capture and reuse swales and infiltration wells. The stormwater BMP features are presented in detail in Attachment 3.

The new trail through the Riding Park will include a Low Impact Development design consisting of a series of new drainage inlets connected to infiltration wells. Technical details on the East Trail Extension Project LID elements are provided in Attachment 3. The Riding Park stormwater capture and reuse system is designed to accommodate up to the 25-year storm event.

iii. Stormwater BMP Effectiveness Inspections.

Rainfall totals recorded during fiscal years 2014-2015 and 2015-2016 led to below-average rainfall amounts and the storm events during those years did not produce a substantial amount of runoff within the Riding Park and similar open space properties within the City of San Juan Capistrano's jurisdiction.

The 2016-2017 fiscal year rainfall total is currently greater than the previous two years and the increased amount of precipitation and duration of the storm events will provide additional opportunities to inspect and evaluate stormwater runoff patterns within the Riding Park. The information gathered from these ongoing inspections are helping to continue assessing drainage pathways and can be used to evaluate the effectiveness of the new stormwater capture and infiltration system constructed during calendar year 2017.

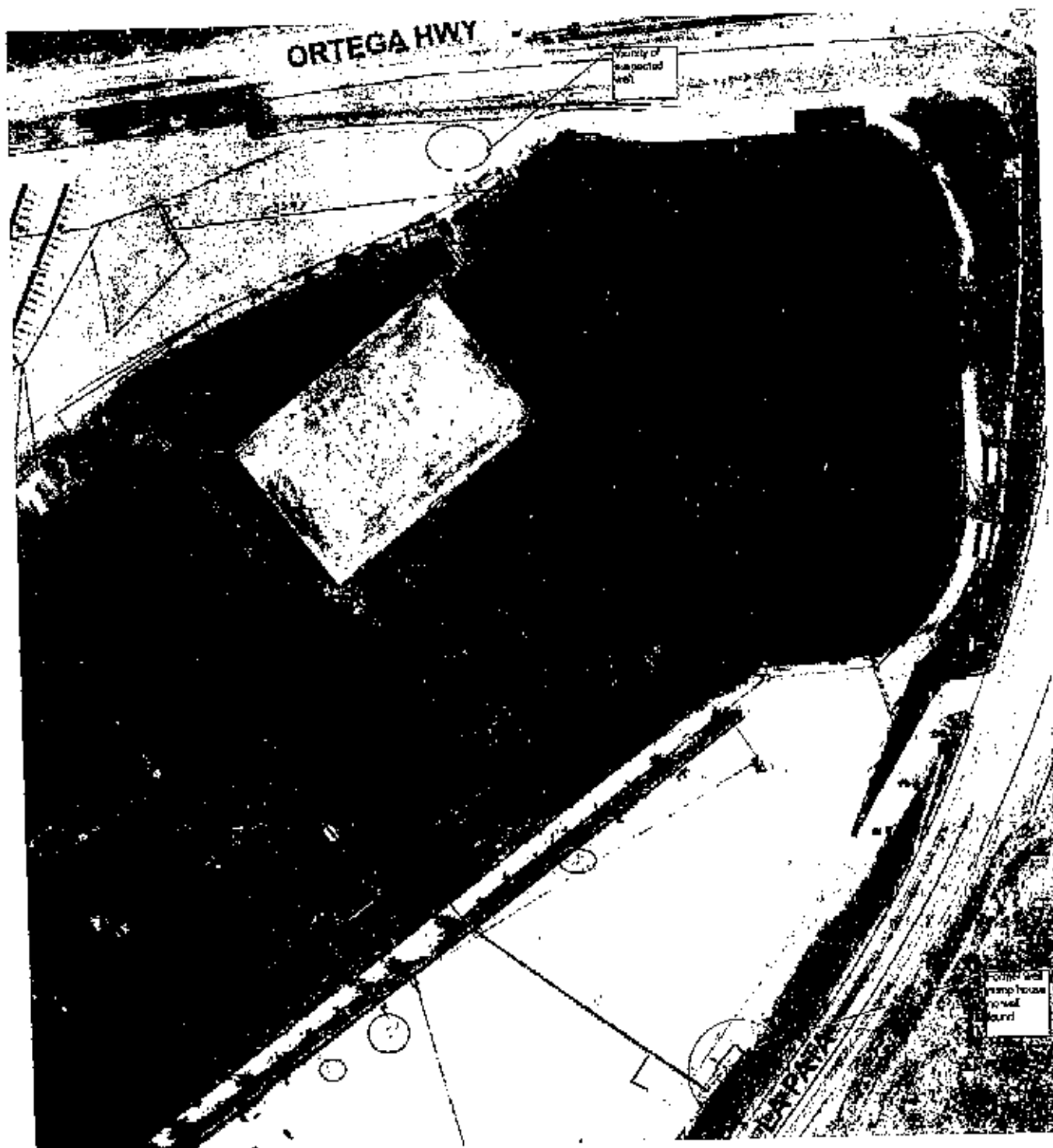
Figure 3-7. Stormwater Drainage Pathways for Precipitation Accumulated at the Stables near San Juan Creek.



iv. Municipal Water Supply Wells in Vicinity of the Riding Park.

The municipal water supply wells believed to have existed, or that were previously located within the Riding Park are shown in Figure 3-8. A location suspected of having a well is shown at the top of the map. No well structure has been located to date. A former well, shown at the bottom of the map, appears to have been removed and no physical structure is located at that site presently.

Figure 3-8. Water Supply Well Location Map in the Vicinity of the Riding Park.



Note on Figure 3-8. Red lines on map indicate location of water supply system pipes.

b) Human-Associated Waste MM and BMPs

i. Onsite waste generation.

The onsite office complex includes restroom facilities for staff. Currently, wastewater flows generated from the office are held in an underground storage tank and BFM has contracted an outside professional service provider to maintain the wastewater tank. Tank pumping services are performed twice per week by the contracted services to ensure the holding tank does not exceed the design capacity.

The City of San Juan Capistrano Utilities Department is currently in the planning phases of a capital project to construct and install a sanitary sewer collection system pipeline on the Riding Park grounds. Wastewater flows generated within the Riding Park will be permanently routed into the City's sanitary sewer system.

ii. Event-based waste generation.

The public who attend the Riding Park events are provided portable toilets as shown in Figure 3-9. Contracted services provide portable toilets on an as-needed basis and the number of individual structures depends on the size and duration of the event. Pumping services are provided throughout an event to ensure the holding tanks do not exceed the design capacity and the portable restroom facilities are removed at the completion of the event.

Figure 3-9. Example of Portable Toilet and a Spill Prevention BMPs.



Additional control measures for managing non-stormwater related issues from portable toilets includes locating restroom facilities on the perimeter of the multi-sport and parking lot grass fields to direct potential spills and leaks into vegetated areas, and to prevent discharges onto impermeable surfaces.

The City of San Juan Capistrano Municipal Code 3-3.553(f) prohibits extended stays of campers and camper trailers. Overnight accommodations for the public participating in the equestrian events is limited to 10 days and patrols are conducted by the City of San Juan Capistrano Code Compliance Officers to ensure visitors maintain compliance with the local ordinance. The Riding Park does not provide an onsite sanitary sewer pump-out service for the camper and camper trailer sanitary sewer tanks.

Attachment 1.

Blenheim Facility Management Event Schedule

For the

2016 and 2017 Calendar Years

Table A1-1. 2016 Blenheim Facility Management Event Schedule

2016	MOVE IN	EVENT DATES	MOVE OUT	EVENTS:	AREA STATUS:	
				*Equestrian, *Tournament Dates (Sports), *Community Event	GRASS FIELDS	SAND RINGS
January		Jan 1-2			GRASS Fields Maintenance	
	9-Jan	Jan 9 (Sat.)	9-Jan	EQUESTRIAN: EquiSports - No Show	GRASS Fields Maintenance	Sand Rings: Olympic Ring & Hunter 1
	15-Jan	Jan 16-17	17-Jan	EQUESTRIAN: Orange County Interscholastic Eq League (IEL 7&8)	GRASS Fields Maintenance	All Sand Rings
		Jan 23-24			GRASS Fields Maintenance	
		Jan 30-31			GRASS Fields Maintenance	
February		Feb 6-7			GRASS Fields Maintenance	
	13-Feb	Feb 13-14	16-Feb		GRASS Fields Maintenance	
	20-Feb	20-Feb	20-Feb	EQUESTRIAN: EquiSports - No Show	GRASS Fields Maintenance / Rest	Sand Rings: Olympic Ring & Hunter 1
		Feb 27-28			GRASS Fields Maintenance / Rest	
March		Mar 5-6			GRASS Fields Maintenance / Rest	
		Mar 12-13			GRASS Fields Maintenance / Rest	
		Mar 19-20			GRASS Fields Maintenance / Rest	
Easter Sun. 3/27	21-Mar	Mar 22-26	28-Mar	EQUESTRIAN: Blenheim Spring Fling	All Grass Rings	All Sand Rings
	28-Mar	Mar 30-Apr 3	4-Apr	EQUESTRIAN: Blenheim Spring Classic I	All Grass Rings	All Sand Rings
	29-Mar	Mar 31-Apr 2	2-Apr	EQUESTRIAN: Dressage - Festival of the Horse	Shared Event - see above	Sand Rings: Olympic, Hunter II, & Dixon

Table A1-1. 2016 Blenheim Facility Management Event Schedule

2016	MOVE IN	EVENT DATES	MOVE OUT	EVENTS:	AREA STATUS:	
				Equestrian Tournament Dates (Sports) (Community Event)	GRASS FIELDS	SAND RINGS
April		Mar 30-Apr 3	4-Apr	EQUESTRIAN: Blenheim Spring Classic I	All Grass Rings	All Sand Rings
		Mar 31-Apr 2	2-Apr	EQUESTRIAN: Dressage - Festival of the Horse	Shared Event - see above	Sand Rings: Olympic, Hunter II, Edison
	4-Apr	April 6-10	11-Apr	EQUESTRIAN: Blenheim Spring Classic II	All Grass Rings	All Sand Rings
	11-Apr	April 13-17	18-Apr	EQUESTRIAN: Blenheim Spring Classic III	All Grass Rings	All Sand Rings
		Apr 23-24			GRASS Fields Maintenance	
		Apr 30-May 1			GRASS Fields Maintenance	
May		Apr 30-May 1			GRASS Fields Maintenance	
		May 7-8			GRASS Fields Maintenance	
		May 14-15			GRASS Fields Maintenance	
	20-May	May 21-22	22-May	EQUESTRIAN: Victory Horse Show 1	GRASS Fields Maintenance / Rest	All Sand Rings
		May 28-29			GRASS Fields Maintenance / Rest	
June	1-Jun	June 2-5	6-Jun	EQUESTRIAN: Blenheim June Jamboree	All Grass Rings	All Sand Rings
	6-Jun	June 8-12	13-Jun	EQUESTRIAN: Blenheim June Classic I	All Grass Rings	All Sand Rings
	13-Jun	June 15-19	20-Jun	EQUESTRIAN: Blenheim June Classic II	All Grass Rings	All Sand Rings
	20-Jun	June 22-26	27-Jun	EQUESTRIAN: Blenheim June Classic III	All Grass Rings	All Sand Rings
Holiday: July 4th	27-Jun	Jun 29-July 3	5-Jul	EQUESTRIAN: Blenheim Red White & Blue Classic	All Grass Rings	All Sand Rings

Table A1-1. 2016 Blenheim Facility Management Event Schedule

2016	MOVE IN	EVENT DATES	MOVE OUT	EVENTS	ARHA STATUS	
				Equestrian Tournament Dates (Sports) Community Event	GRASS FIELDS	SAND RINGS
July		6/29 - July 3		EQUESTRIAN: Blenheim Red White & Blue	All Grass Rings	All Sand Rings
		July 9-10			GRASS Fields Rest	
	15-Jul	July 16-17	17-Jul	TOURNAMENT DATES: Slammer's Soccer	Shared Event Dates - see below	
	15-Jul	July 16-17	17-Jul	EQUESTRIAN: Victory Horse Show 2	Shared Event Dates	All Sand Rings
	22-Jul	July 23-24	24-Jul	TOURNAMENT DATES: Pat's Cup Soccer		
		July 30-31			Not Available Event Below	
		July 29 (pm), July 30		COMMUNITY EVENT: Two-Stepping Under the Stars	Kids Day Area/Grass Field: (7/29 - Sponsor Appreciation) (7/30 - Community Event Day)	
August	5-Jul	Aug 6-7	7-Aug	EQUESTRIAN: Robin Serfass	Grass Field: (1) Grass Ring	All Sand Rings
	15-Aug	Aug 17-21	22-Aug	EQUESTRIAN: Blenheim Summer Classic	All Grass Rings	All Sand Rings
	22-Aug	Aug 27-28	2-Sep	COMMUNITY EVENT: Rancho Mission Viejo Rodeo	All Grass Field	Not Available
September	2-Sep	Sept 3-4			GRASS Fields Rest	
	9-Sep	Sept 10-11	11-Sep	EQUESTRIAN: Victory Horse Show 4	GRASS Fields Rest	All Sand Rings
	12-Sep	Sept 14-18	19-Sep	EQUESTRIAN: Blenheim Fall Tournament	All Grass Rings	All Sand Rings
	19-Sep	Sept 21-25	26-Sep	EQUESTRIAN: Blenheim Int. Jumping Festival	All Grass Rings	All Sand Rings

Table A1-1. 2016 Blenheim Facility Management Event Schedule

2016	MOVE IN	EVENT DATES	MOVE OUT	EVENTS:	ARHA STATUS:	
				*Equestrian *Tournament Dates (Sports) *Community Event	GRASS FIELDS	SAND RINGS
October	30-Sep	Oct 1-2	3-Oct	TOURNAMENT DATES: SCDSL Soccer	Shared Event Dates - see below	All Sand Rings
	30-Sep	Oct 1-2	2-Oct	EQUESTRIAN: Victory Horse Show 5		All Sand Rings
	7-Oct	Oct 8-9	10-Oct	TOURNAMENT DATES: SCDSL Soccer		
	14-Oct	Oct 15-16	13-Oct	TOURNAMENT DATES: SCDSL Soccer		All Sand Rings
	10/10 & 10/11 Warmup	Oct 12-16	17-Oct	EQUESTRIAN: Orange County Horse Show Association (OCHSA Finals)	Shared Event Dates - see above	All Sand Rings
	21-Oct	Oct 22-23	24-Oct	TOURNAMENT DATES: SCDSL Soccer		All Sand Rings
	28-Oct	Oct 29-30	31-Oct	TOURNAMENT DATES: SCDSL Soccer		
	28-Oct	Oct 29-30	30-Oct	EQUESTRIAN: IEL 1 & 2	Shared Event Dates - see above	All Sand Rings
November	4-Nov	Nov 5-6	7-Nov	TOURNAMENT DATES: SCDSL Soccer		
	11-Nov	Nov 12-13	14-Nov	TOURNAMENT DATES: SCDSL Soccer		
	18-Nov	Nov 19-20	21-Nov	TOURNAMENT DATES: SCDSL Soccer		
Thanksgiving 11/24		Nov 26-27				
December	2-Dec	Dec 3-4	5-Dec	TOURNAMENT DATES: SCDSL Soccer		All Sand Rings
Last Weekend d Soccer	9-Dec	Dec 10-11	13-Dec	TOURNAMENT DATES: Albion OC		

Table A1-1. 2016 Blenheim Facility Management Event Schedule

2016	MOVE IN	EVENT DATES	MOVE OUT	EVENTS	AREA STATUS	
				*Equestrian *Tournament Dates (Sports) *Community Event	GRASS FIELDS	SAND RINGS
can take place.						
		Dec 17-18			GRASS Fields Maintenance / Rest	
		Dec 24-25			GRASS Fields Maintenance / Rest	

The 2016 event schedule provided in this attachment is representative of events on an annual basis, and the calendar year 2017 schedule will be similar in terms of number of events and the type of activities that will occur during those times.

Table A1-2. 2017 Blenheim Facility Management Event Schedule

Month	MOVE IN	EVENT DATES	MOVE OUT	EVENTS:	AREA STATUS:	
				*Equestrian *Tournament Dates (Soccer) *Community Event	GRASS FIELDS	SAND RINGS
January		Jan 7-8			GRASS Fields Maintenance	
Cancelled due to rain forecast		Jan 14-15		EQUESTRIAN: Orange County Interscholastic Eq League (IEL 3&4)	GRASS Fields Maintenance	Cancelled
Cancelled due to rain forecast		21-Jan		No Show	GRASS Fields Maintenance	Cancelled
Relocated off-site due to rain forecast		22-Jan		LART DRILL (City of SJC)	GRASS Fields Maintenance	Cancelled
	27-Jan	Jan 28-29	29-Jan	EQUESTRIAN: Orange County Interscholastic Eq League (IEL 3&4)	GRASS Fields Maintenance	All Sand Rings
February		Feb 4-5		No-Show - RAIN DATE	GRASS Fields Maintenance	
		Feb 11-12		EQUESTRIAN: Orange County Interscholastic Eq League (IEL 5&6)	GRASS Fields Maintenance	

Table A1-2. 2017 Blenheim Facility Management Event Schedule

Month	MOVE IN	EVENT DATES	MOVE OUT	EVENTS:	AREA STATUS:	
				*Equestrian *Tournament Dates (Soccer) *Community Event	GRASS FIELDS	SAND RINGS
		Feb 18-19			GRASS Fields Maintenance/ Rest	
		Feb 25-26			GRASS Fields Maintenance/ Rest	
March	3-Mar	Mar 4-5	5-Mar	EQUESTRIAN: Orange County Interscholastic Eq League (IEL 7&8)	GRASS Fields Maintenance/ Rest	All Sand Rings
		Mar 11-12			GRASS Fields Maintenance/ Rest	
		Mar 18-19			GRASS Fields Maintenance/ Rest	
	21-Mar	Mar 22-26	27-Mar	EQUESTRIAN: Blenheim Spring Classic I	All Grass Rings	All Sand Rings
	21-Mar	Mar 23-26	26-Mar	EQUESTRIAN: Dressage / Festival of the Horse	Shared Event Dates - see above	All Sand Rings
	28-Mar	Mar 29- Apr 2	3-Apr	EQUESTRIAN: Blenheim Spring Classic II	All Grass Rings	All Sand Rings
April		Mar 29- Apr 2	4-Apr	EQUESTRIAN: Blenheim Spring Classic II	All Grass Rings	All Sand Rings
	3-Apr	April 5-9	10-Apr	EQUESTRIAN: Blenheim Spring Classic III	All Grass Rings	All Sand Rings

Table A1-2. 2017 Blenheim Facility Management Event Schedule

2017 Month	MOVE IN	EVENT DATES	MOVE OUT	EVENTS	AREA STATUS	
				*Equestrian *Tournament Dates (Soccer) *Community Event	GRASS FIELDS	SAND RINGS
Easter Sun. 4/16	10-Apr	April 11-15	16-Apr	EQUESTRIAN: Blenheim Spring Classic IV	All Grass Rings	All Sand Rings
		Apr 22-23			GRASS Fields Maintenance	
		Apr 29-30			GRASS Fields Maintenance	
May		May 6-7			GRASS Fields Maintenance	
		May 13-14			GRASS Fields Maintenance	
	19-May	May 20-21	22-May	EQUESTRIAN: Victory Horse Show 1	GRASS Fields Maintenance/ Rest	All Sand Rings
		May 27-28			GRASS Fields Maintenance/ Rest	
June	5/29 (May)	June 1-4	5-Jun	EQUESTRIAN: Blenheim June Jamboree	All Grass Rings	All Sand Rings
	6-Jun	June 7-11	12-Jun	EQUESTRIAN: Blenheim June Classic I	All Grass Rings	All Sand Rings
	13-Jun	June 14-18	29-Jun	EQUESTRIAN: Blenheim June Classic II	All Grass Rings	All Sand Rings
	20-Jun	June 21-25	26-Jun	EQUESTRIAN: Blenheim June Classic III	All Grass Rings	All Sand Rings
Holiday: July 4th	27-Jun	Jun 28- July 2	3-Jul	EQUEST: Blenheim Red White & Blue Classic	All Grass Rings	All Sand Rings
July		6/28 - July 2	3-Jul	EQUESTRIAN: Blenheim Red, White & Blue	All Grass Rings	All Sand Rings
	7-Jul	July 8-9	9-Jul	EQUESTRIAN: Victory Horse Show 2	GRASS Fields Maintenance/Res t	
	14-Jul	July 15-16	17-Jul	SOCCER:		
	21-Jul	July 22-23	24-Jul	SOCCER:		

Table A1-2. 2017 Blenheim Facility Management Event Schedule

2017	MOVE IN	EVENT DATES	MOVE OUT	EVENTS	AREA STATUS	
				*Equestrian) *Tournament Dates (Soccer); *Community Event	GRASS FIELDS	SAND RINGS
		July 29-30			(Event Listed Below)	
		July 28 (pm) (July 29-30)		COMMUNITY EVENT: Two- Stepping Under the Stars	Kids Day Area/Grass Field: (7/28 - Sponsor Appreciation) (7/29 - Community Event Day)	
August	4-Jul	Aug 5-6	6-Aug	EQUESTRIAN: Robin Serfass (Victory 3)	Grass Field: (1) Grass Ring	All Sand Rings
		Aug 12-13			GRASS Fields Rest	
	14-Aug	Aug 16-20	21-Aug	EQUESTRIAN: Blenheim Summer Classic	All Grass Rings	All Sand Rings
	21-Aug	Aug 26- 27	6-Sep	COMMUNITY EVENT: Rancho Mission Viejo Rodeo	All Grass Field	Not Available
Septemb er		Sept 2-3			GRASS Fields Maintenance - following Rodeo Use.	

Table A1-2. 2017 Blenheim Facility Management Event Schedule

2017 Month	MOVE IN	EVENT DATES	MOVE OUT	EVENTS:	AREA STATUS:	
				*Equestrian, *Tournament Dates (Soccer), *Community Event	GRASS FIELDS	SAND RINGS
	8-Sep	Sept 9-10	10-Sep	EQUESTRIAN: Victory Horse Show 4	GRASS Fields Rest	All Sand Rings
	11-Sep	Sept 13-17	18-Sep	EQUESTRIAN: Blenheim Fall Tournament	All Grass Rings	All Sand Rings
	18-Sep	Sept 20-24	25-Sep	EQUESTRIAN: Blenheim Int. Jumping Festival	All Grass Rings	All Sand Rings
		Sept 30 - Oct 1			GRASS Fields Maintenance	
October	6-Oct	Oct 7-8	9-Oct	SOCCER:		
	6-Oct	Oct 7-8	8-Oct	EQUESTRIAN: IRL 1 & 2		All Sand Rings
	13-Oct	Oct 14-15	16-Oct	SOCCER:	Shared Event Dates - see below	All Sand Rings
		Oct 14-15		EQUESTRIAN: Victory Horse Show 5		All Sand Rings
	20-Oct	Oct 21-22	23-Oct	SOCCER:		
		Oct 21-22				
	10/23 & 10/24 Warmup	Oct 25-29	29-Oct	EQUESTRIAN: Orange County Horse Show Association (OCHSA Finals)	Shared Event Dates - see below	All Sand Rings

Table A1-2. 2017 Blenheim Facility Management Event Schedule

2017 Month	MOVE IN	EVENT DATES	MOVE OUT	EVENTS	AREA STATUS	
				*Equestrian/ Tournament Dates (Soccer) *Community Event	GRASS FIELDS	SAND RINGS
	27-Oct	Oct 28-29	30-Oct	SOCCER:		All Sand Rings
Novemb er	3-Nov	Nov 4-5	6-Nov	SOCCER:		
		Nov 4-5		EQUESTRIAN: IEL 3 & 4		All Sand Rings
	10-Nov	Nov 11-12	13-Nov	SOCCER:		
		Nov 11-12				
	17-Nov	Nov 18-19	20-Nov	SOCCER:		
		Nov 18-19				
3-Day Tournam ent	11/22 (23rd: Thanks giving)	Nov 24-26	27-Nov	SOCCER:		
		Nov 25-26				
Decembe r	1-Dec	Dec 2-3	4-Dec	SOCCER:		All Sand Rings
	1-Dec	Dec 2-3	3-Dec	EQUESTRIAN: IEL 5 & 6	Shared Event Dates - see above	All Sand Rings
	8-Dec	Dec 9-10	11-Dec	SOCCER:		
		Dec 16-17			GRASS Fields Maintenance/ Rest	
Event Schedule Subject to Change.						

Attachment 2,
Short-Term Non-Stormwater BMP Implementation Plan
For the
RMV Riding Park Equine Wash Racks



1062 Calle Negocio #F, San Clemente CA 92673
Visit us on the Web: www.ScottEnvironmental.com

Non-Stormwater Runoff Best Management Plan

for the

Equestrian Facility Wash Racks

at the

Rancho Mission Viejo Riding Park at San Juan Capistrano

The following Best Management Practice (BMP) Plan provides an overview of the wash rack pollution prevention measures that will be implemented at the Rancho Mission Viejo Riding Park to eliminate non-stormwater discharges into San Juan Creek. The wash racks generate dry weather condition related runoff from the bathing of horses by the animal's owners and their staff.

The information presented on the following pages of this document describes the implementation of holding tanks for containment wash racks discharge. The holding tanks are designed to be short-term BMPs during the interim period until a connection to the sanitary sewer system can be completed to each wash rack.

These structural BMPs are implemented to meet with the requirements specified in the municipal separate storm sewer system (MS4) permit Order number (No.) R9-2015-0100 issued by the San Diego Regional Water Quality Control Board and non-stormwater discharge prohibitions specified by *Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region* (Order No. R9-2014-0041).

Scott Environmental Health & Safety Services

Phone: 949-454-1625 Fax: 949-454-1636 Email: Support@ScottEnvironmental.com



1062 Calle Negocio #F, San Clemente CA 92673
Visit us on the Web: www.ScottEnvironmental.com

Holding Tanks and the Recycling of Wastewater

The structural BMP plan for each wash rack consists of a 3,000 gallon Noreasco (manufacturer part number 40635) holding tank connected to the drainage inlets. The water will be pumped into each holding tank by a sump pump. A holding tank will be placed at the end of each of the wash racks and can contain 3,000 gallons of water. The necessity of such a large holding tank is due to the random use of wash racks. The most conveniently located wash rack may use up to 1,700 gallons of water while another wash rack may use only 300 gallons of water. The holding tanks need to be able to hold the maximum amount of water used at any one wash rack. In addition, runoff generated on the wash rack concrete surface, as a result of incidental storm event related conditions will be added to the total amount of water in each of the holding tanks.

The holding tank water will be disinfected and used for dust control at the Riding Park following the disinfection process described in the following section.



Disinfection Process

The wash water disinfection process consists of adding a 12% chlorine solution (2 gallons) to each water tank. The chlorine will be stored in a shed because it is a hazardous material. As each tank is filled with wastewater from the wash rack, residual Chlorine will be left in the water. Before the resulting treated

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water is used for dust control on the property, a Chlorine residual test kit will be used to verify the residual chlorine concentration and to determine whether the concentration is present at a level that will not harm surrounding vegetation. This test kit will be used in every 1 of 5 truckloads of water.

Tank Water Level Monitoring Procedures:

The water level will be monitored by checking the tank gauge daily every 1-2 hours during business hours. Each tank is fitted with a float valve switch that turns off the electric sump pump to prevent overtopping. The water will be also get pumped out of each tank when the water level reaches approximately 2,000 gallons.

Tank System Maintenance:

The holding tanks are HDPE (high density polyethylene), and will not corrode. Every six months, or as needed, the tanks will be cleaned and rinsed out per the manufacturers specifications. Solids and/or accumulated bacteria will be removed from the interior & bottom of each tank. The isolation valves will be inspected, adjusted and/or replaced as needed. The pumps will be maintained per the manufacturers specifications.

Schedule of Operation:

The holding tanks are anticipated to be used as a non-stormwater discharge containment system from March 2017 to December 2017, or until the sanitary sewer system construction project is completed.

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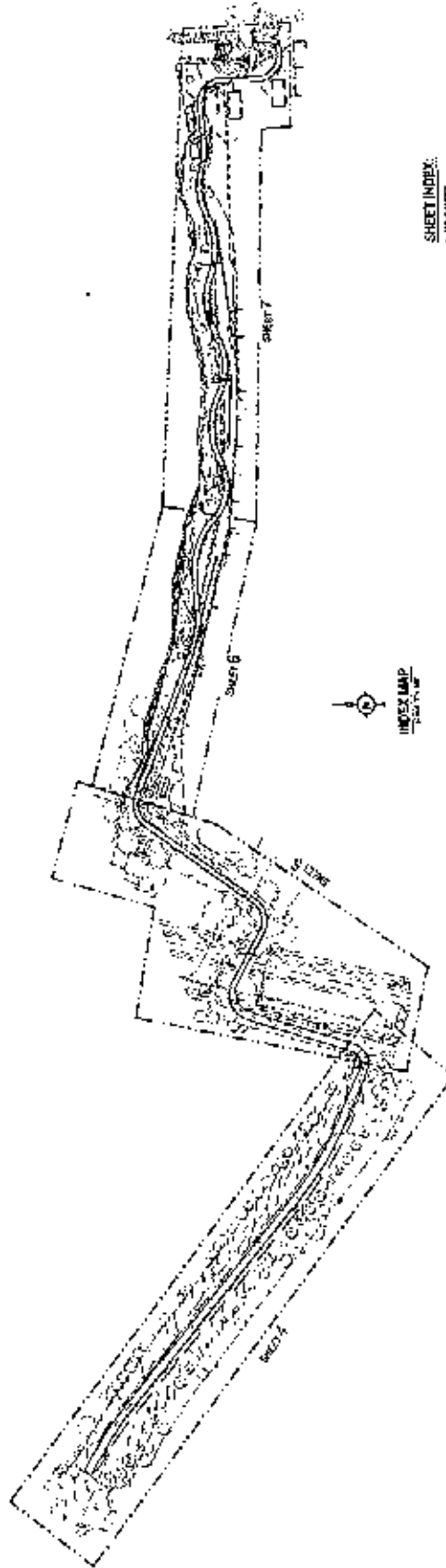
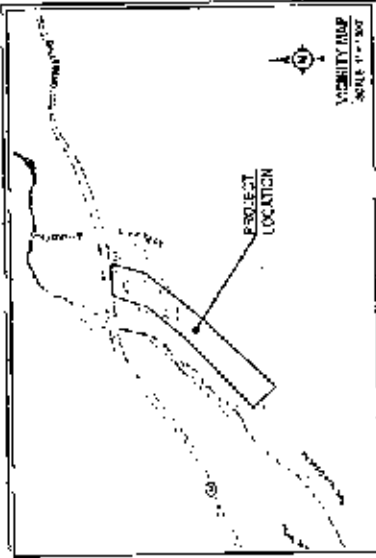
Attachment 3.

Stormwater Capture and Reuse System

For the

San Juan Capistrano East Trail Expansion Project

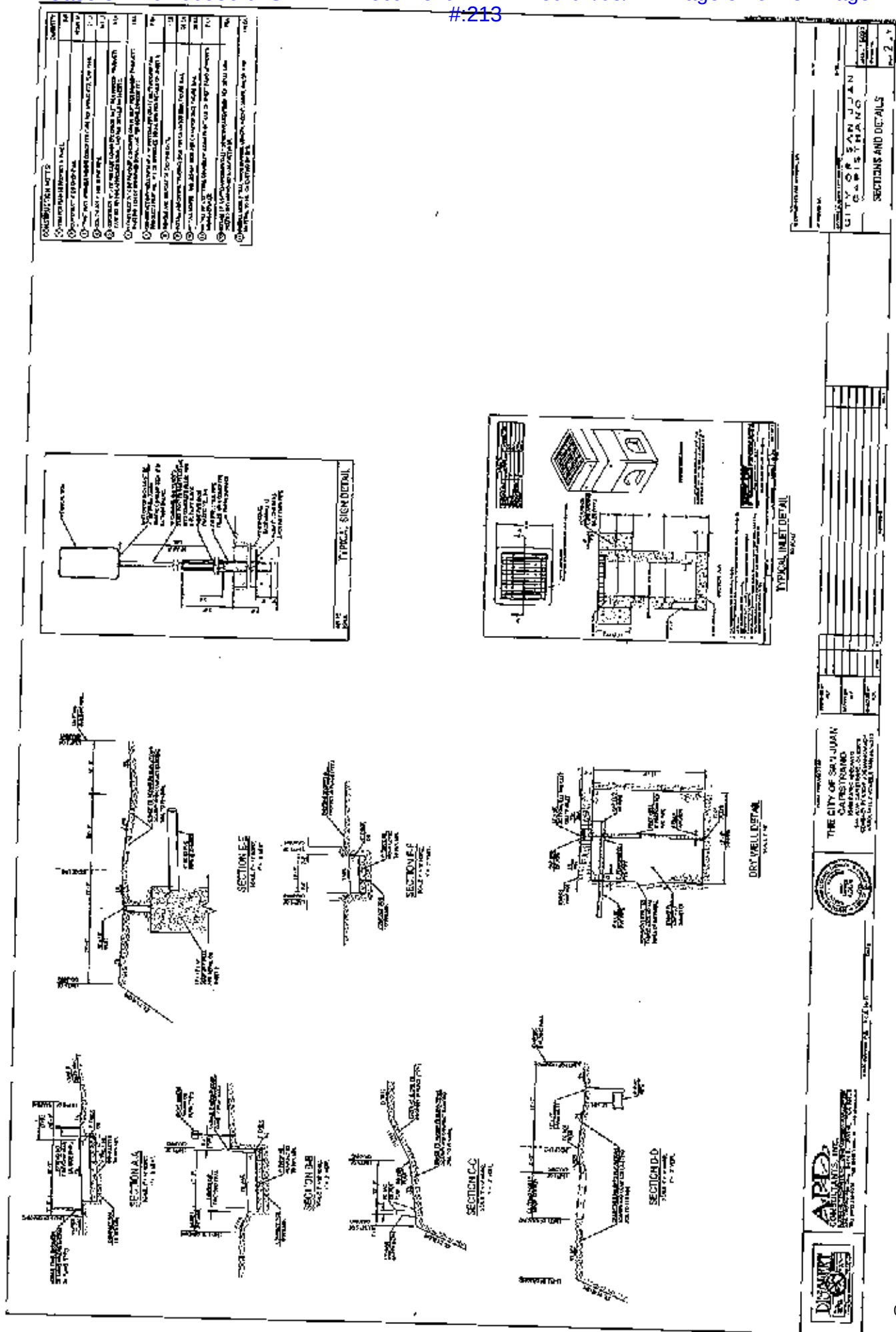
CITY OF SAN JUAN CAPISTRANO EAST OPEN SPACE TRAIL PROJECT

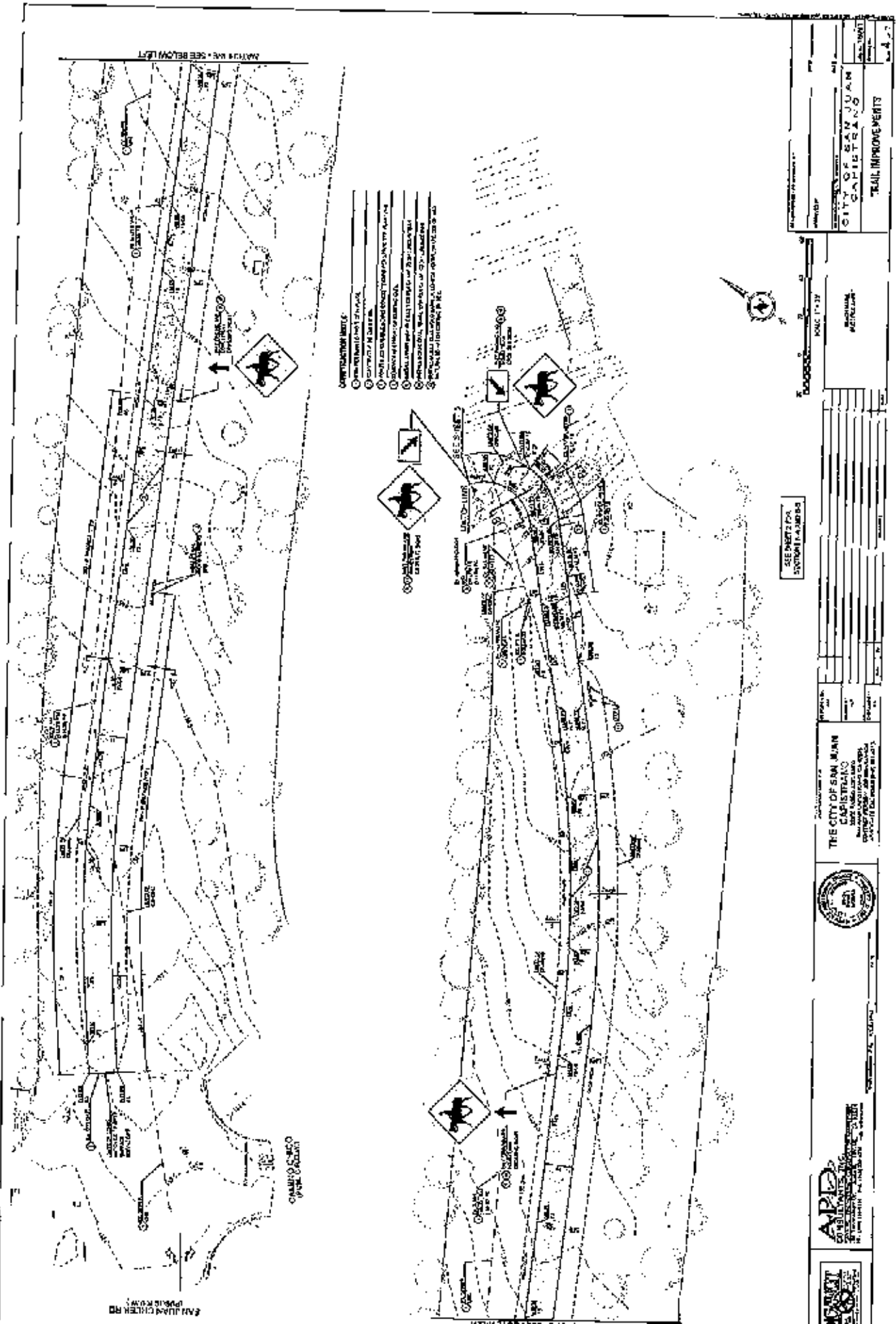


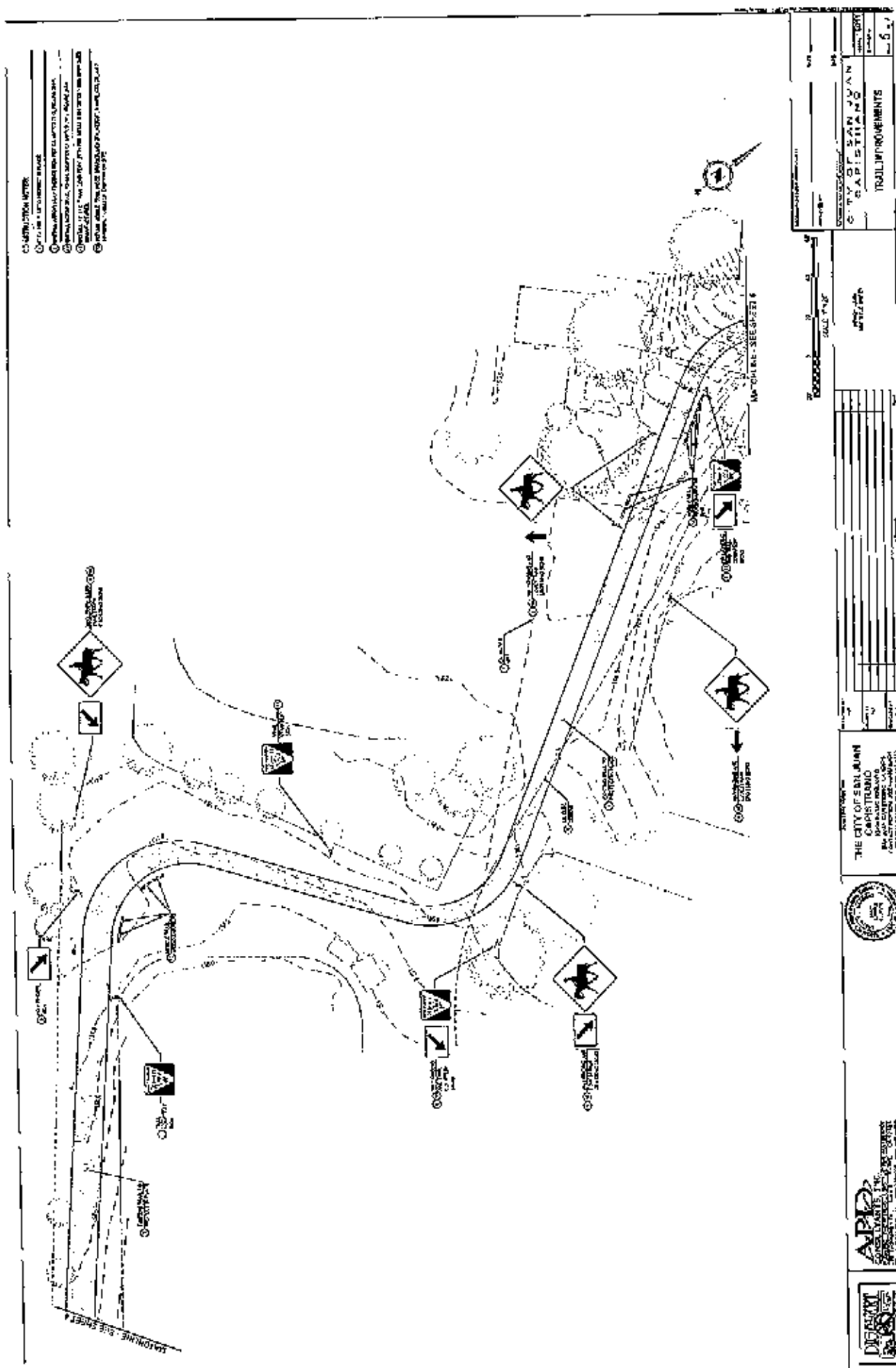
SHEET INDEX:
1. MAIN SHEET
2. EAST OPEN SPACE TRAIL
3. TRAIL ROUTE
4. TRAIL ALIGNMENT
5. TRAIL WIDTH
6. TRAIL ELEVATION
7. TRAIL DRAINAGE

NOTES:
1. THE TRAIL ROUTE IS SHOWN IN THE MAIN SHEET.
2. THE TRAIL ALIGNMENT IS SHOWN IN THE MAIN SHEET.
3. THE TRAIL WIDTH IS SHOWN IN THE MAIN SHEET.
4. THE TRAIL ELEVATION IS SHOWN IN THE MAIN SHEET.
5. THE TRAIL DRAINAGE IS SHOWN IN THE MAIN SHEET.

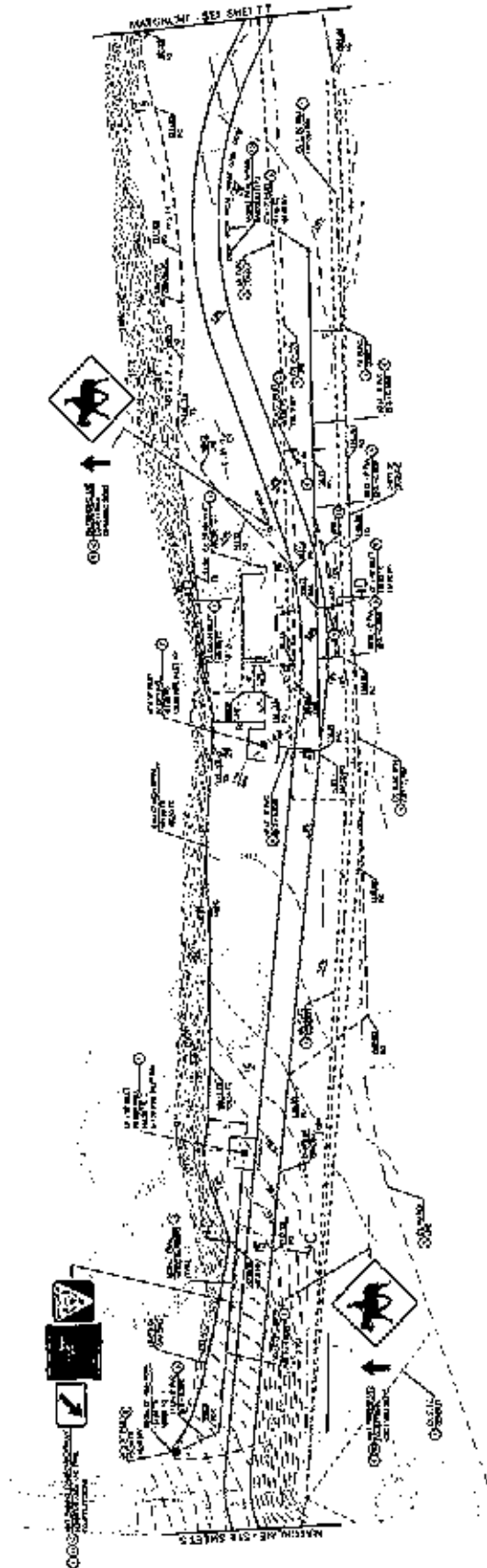
		THE CITY OF SAN JUAN CAPISTRANO COUNCILMAN JUAN CARLOS RIVERA 2017-2021		APR 2017 1/1	
PROJECT LOCATION EAST OPEN SPACE TRAIL PROJECT		TITLE SHEET CITY OF SAN JUAN CAPISTRANO		SHEET 1 OF 1	











1. **Identify the problem.**
2. **Define the problem.**
3. **Generate hypotheses.**
4. **Test the hypotheses.**
5. **Implement the solution.**
6. **Evaluate the solution.**
7. **Communicate the solution.**
8. **Monitor the solution.**
9. **Adjust the solution.**
10. **Document the solution.**

DATE _____ **TIME** _____



3
4
5
6
7

THE CITY OF SAN JUAN
CAPISSTRAND



APD
CONSULTANTS, INC.
1000 UNIVERSITY AVENUE, SUITE 100
ANN ARBOR, MI 48106-1500
TEL: 313/763-1000 FAX: 313/763-1001



**Full
Page**

CITY OF ST. LOUIS
CARLSTADT

THE IMPROVEMENTS

EXHIBIT B

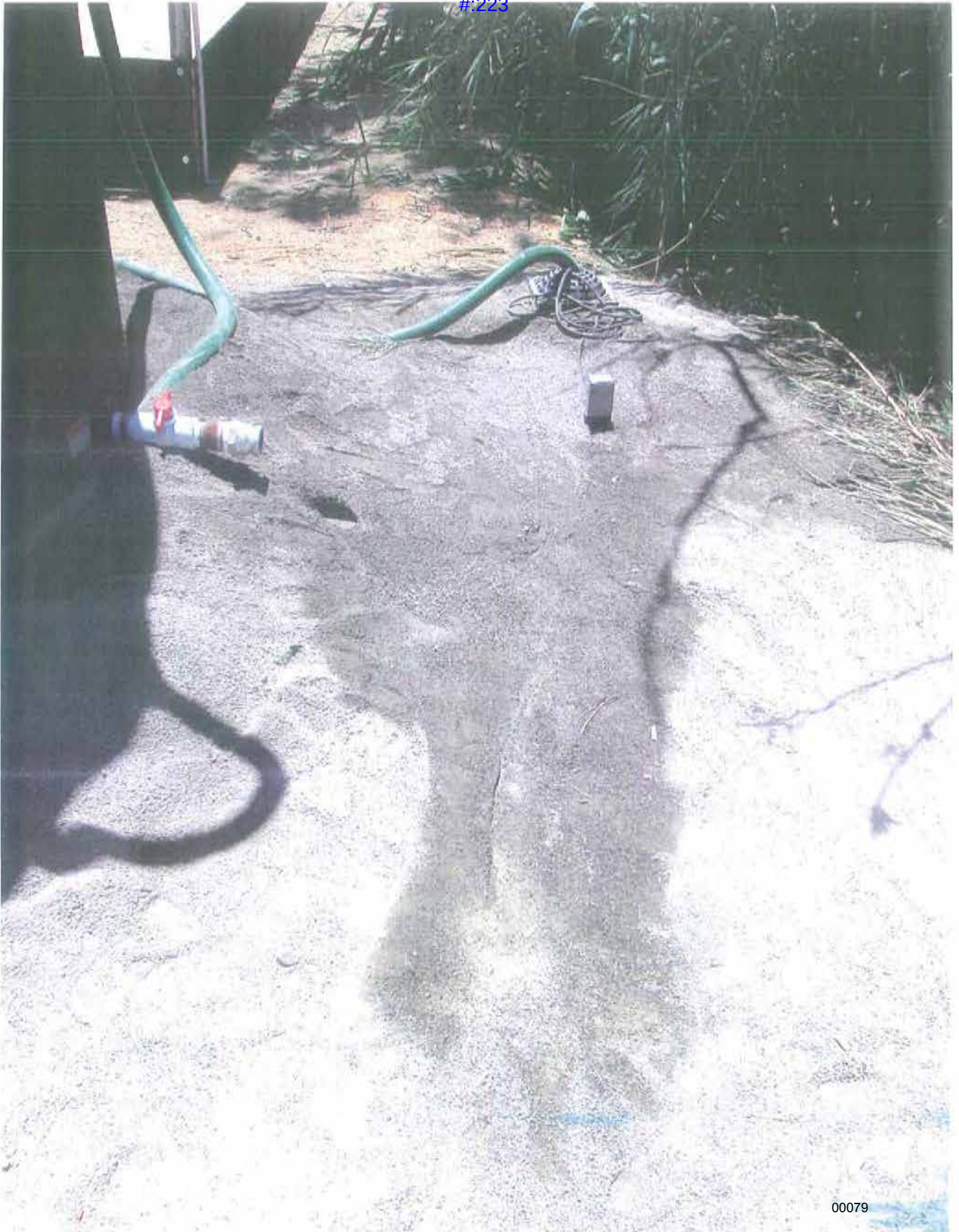
2016 Events (Table 3-2 of Exhibit A)

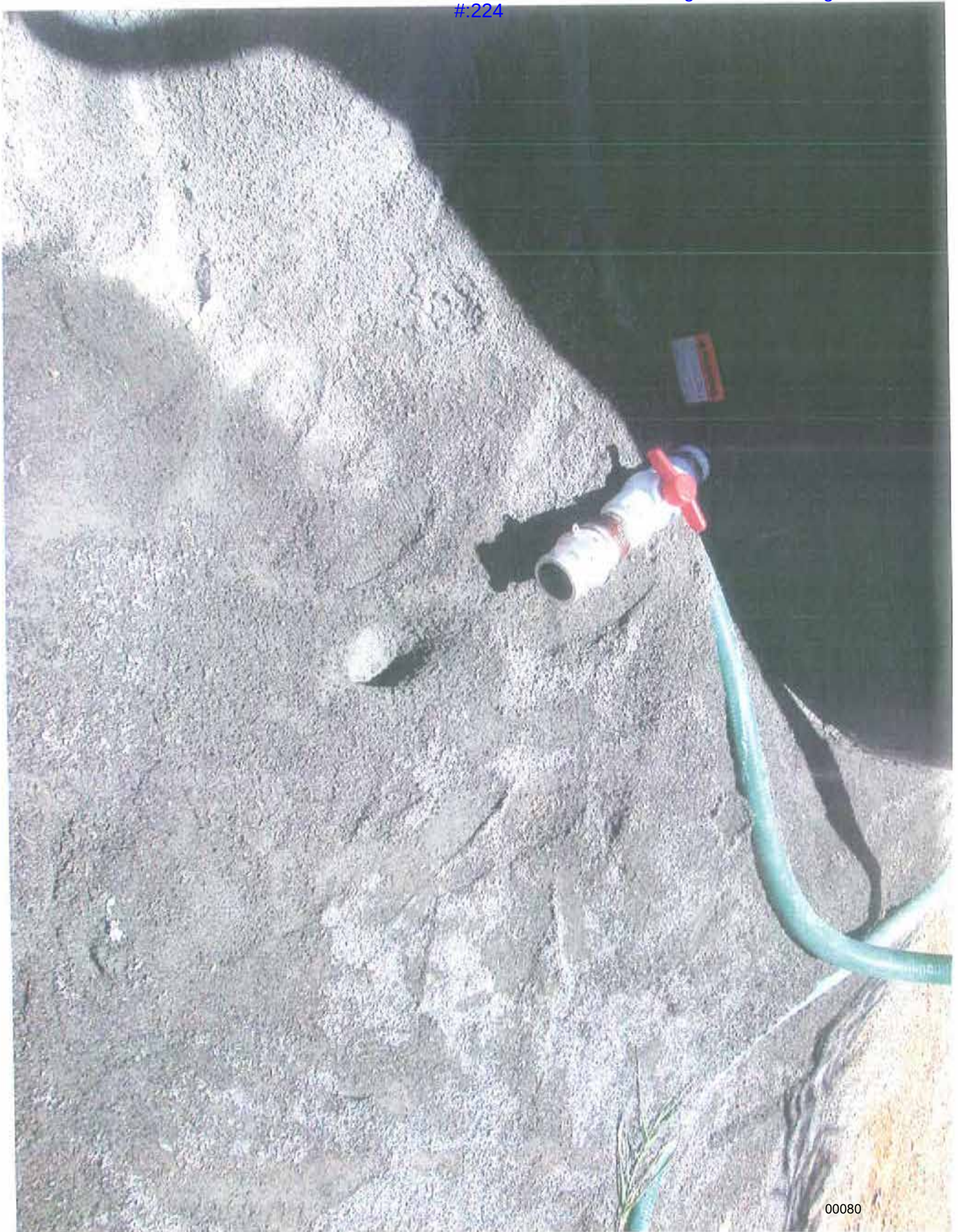
Event Title	Number of Event Days	Horses Present
Orange County Interscholastic Eq League	3	76
Blenheim Spring Classic I	8	290
Blenheim Spring Classic II	8	516
Dressage - Festival of the Horse	3	290
Blenheim Spring Classic III	8	766
Blenheim Spring Classic IV	8	704
Victory Horse Show #1	3	186
Blenheim June Classic I	8	810
Blenheim June Classic II	8	719
Blenheim June Classic III	8	612
Blenheim Red White & Blue Classic	7	364
Victory Horse Show #2	3	129
Robin Serfass / Victory III	3	160
Blenheim Summer Classic	8	491
Rancho Mission Viejo Rodeo	2	500
Victory Horse Show #4	3	105
Blenheim Fall Tournament	8	649
Blenheim Int. Jumping Festival	8	456
Victory Horse Show #5	3	83
Orange County Horse Show Association	8	235
OC Interscholastic Equest. League (1&2)	3	39
OC Interscholastic Equest. League (3&4)	3	85
OC Interscholastic Equest. League (5&6)	3	89
Totals:	127	8354

Events Exceeding 500 Horses	Number of Days	Horses Present
Blenheim Spring Classic II	8	516
Blenheim Spring Classic III	8	766
Blenheim Spring Classic IV	8	704
Blenheim June Classic I	8	810
Blenheim June Classic II	8	719
Blenheim June Classic III	8	612
Rancho Mission Viejo Rodeo	2	500
Blenheim Fall Tournament	8	649
Totals:	58	5276

Events Exceeding 150 Horses	Number of Days	Horses Present
Blenheim Spring Classic I	8	290
Blenheim Spring Classic II	8	516
Dressage Festival of the Horse	3	290
Blenheim Spring Classic III	8	766
Blenheim Spring Classic IV	8	704
Victory Horse Show #1	3	186
Blenheim June Classic I	8	810
Blenheim June Classic II	8	719
Blenheim June Classic III	8	612
Blenheim Red White & Blue Classic	7	364
Victory Horse Show #2	3	129
Robin Serfass / Victory III	3	160
Blenheim Summer Classic	8	491
Rancho Mission Viejo Rodeo	2	500
Blenheim Fall Tournament	8	649
Blenheim Int. Jumping Festival	8	456
Orange County Horse Show Association	8	235
Totals:	109	7877

EXHIBIT C





00080





EXHIBIT D

Santa Ana Rain Station SNA		
Date	Day	Rain Inches
7/13/2012	Friday	0.18
10/11/2012	Thursday	0.18
10/12/2012	Friday	0.17
11/17/2012	Saturday	0.24
11/29/2012	Thursday	0.21
11/30/2012	Friday	0.1
12/3/2012	Monday	0.6
12/13/2012	Thursday	0.54
12/24/2012	Monday	0.55
12/26/2012	Wednesday	0.26
12/30/2012	Sunday	0.13
1/24/2013	Thursday	0.56
1/25/2013	Friday	0.3
1/26/2013	Saturday	0.22
2/9/2013	Saturday	0.18
2/20/2013	Wednesday	0.18
3/8/2013	Friday	0.27
3/9/2013	Saturday	0.12
5/6/2013	Monday	0.35

5/7/2013	Tuesday	0.19
10/10/2013	Thursday	0.24
11/21/2013	Thursday	0.32
11/30/2013	Saturday	0.22
12/8/2013	Sunday	0.27
12/20/2013	Friday	0.16
2/3/2014	Monday	0.12
2/7/2014	Friday	0.11
2/27/2014	Thursday	0.44
2/28/2014	Friday	0.5
3/1/2014	Saturday	1.07
3/2/2014	Sunday	0.33
4/2/2014	Wednesday	0.12
4/26/2014	Saturday	0.22
11/1/2014	Saturday	0.32
12/1/2014	Monday	0.13
12/3/2014	Wednesday	1.05
12/4/2014	Thursday	0.8
12/12/2014	Friday	1.32
12/13/2014	Saturday	0.69
12/17/2014	Wednesday	0.34

12/31/2014	Wednesday	0.12
1/11/2015	Sunday	0.3
1/12/2015	Monday	0.75
1/27/2015	Tuesday	0.12
2/23/2015	Monday	0.52
3/2/2015	Monday	0.19
3/3/2015	Tuesday	0.19
4/8/2015	Wednesday	0.2
5/8/2015	Friday	0.29
5/15/2015	Friday	1.06
5/16/2015	Saturday	0.16
7/19/2015	Sunday	0.19
7/20/2015	Monday	0.25
9/10/2015	Thursday	0.16
9/15/2015	Tuesday	1.27
12/14/2015	Monday	0.2
12/20/2015	Sunday	0.14
12/22/2015	Tuesday	0.27
12/23/2015	Wednesday	0.27
1/6/2016	Wednesday	0.97
1/7/2016	Thursday	1.56

2/1/2016	Monday	0.21
2/18/2016	Thursday	0.43
3/6/2016	Sunday	0.37
3/7/2016	Monday	0.2
3/12/2016	Saturday	0.44
5/7/2016	Saturday	0.62
10/17/2016	Monday	0.17
10/24/2016	Monday	0.32
10/25/2016	Tuesday	0.1
11/21/2016	Monday	0.87
11/27/2016	Sunday	0.5
12/16/2016	Friday	1.56
12/22/2016	Thursday	1.16
12/23/2016	Friday	0.29
12/24/2016	Saturday	1.15
12/31/2016	Saturday	0.86
1/1/2017	Sunday	0.27
1/5/2017	Thursday	0.17
1/6/2017	Friday	0.15
1/9/2017	Monday	0.46
1/11/2017	Wednesday	0.37

1/13/2017	Friday	1.71
1/19/2017	Thursday	0.67
1/20/2017	Friday	1.21
1/22/2017	Sunday	1.77
1/23/2017	Monday	0.14
2/6/2017	Monday	1.09
2/7/2017	Tuesday	0.34
2/11/2017	Saturday	0.14
2/17/2017	Friday	0.53
2/18/2017	Saturday	0.15
2/26/2017	Sunday	0.1
2/27/2017	Monday	0.19
Total Days:		94


EXHIBIT C



E18

City of San Juan Capistrano Agenda Report

TO: Honorable Mayor and Members of the City Council

FROM:  Ben Siegel, City Manager

SUBMITTED BY: Jeff Ballinger, City Attorney

DATE: June 6, 2017

SUBJECT: Consideration of a Joint Defense Agreement Regarding Confidential Communications in Connection with a Notice of Intent to Sue Under the Clean Water Act Issued to the City and Blenheim Facility Management by Orange County Coastkeeper

RECOMMENDATION:

By motion, approve and authorize the City Manager and City Attorney to execute the Joint Defense Agreement with Blenheim Facility Management ("Blenheim"), in substantially the form attached hereto, in connection with the City's receipt of a notice of intent to sue under the Clean Water Act by the Orange County Coastkeeper.

EXECUTIVE SUMMARY:

On March 31, 2017, Orange County Coastkeeper submitted a notice of intent to sue under the Clean Water Act to the City and Blenheim. The notice was supplemented on May 4, 2017. The notices allege that violations of the Clean Water Act have occurred at Rancho Mission Viejo Riding Park at San Juan Capistrano ("Riding Park"). Blenheim has operated and managed the Riding Park at all times referenced in the notices. The City and Blenheim desire to enter into a Joint Defense Agreement, outlining mutual promises relating to their joint interests in defending against the litigation threatened in the notices.

DISCUSSION/ANALYSIS:

The City purchased the Riding Park property in 2010. At the time of the purchase and at all times since, Blenheim has managed the Riding Park pursuant to a license (2010-2013) or management agreement (2014-present). Each license and management agreement contains a provision requiring Blenheim to indemnify,

City Council Agenda Report

June 6, 2017

Page 2 of 3

defend and hold the City harmless from and against all liabilities, claims, damages, losses and expenses arising out of Blenheim's use of the Property.

Based on the claims made in the notices, the City and Blenheim have common legal interests in defending against the allegations in the notices and any lawsuit, if any is filed. The City and Blenheim have, and may assert, joint and/or common defenses, claims and/or cross-claims. Therefore, it is in the City's best interest to cooperate with Blenheim to advance the parties' interests in defending any potential lawsuit. Further, the City and Blenheim may wish to share information in confidence for the purpose of formulating and implementing a joint and/or common defense effort and/or legal strategy in the case.

The proposed Joint Defense Agreement acknowledges the mutual interests the City and Blenheim have in any potential litigation, and outlines an agreement regarding the confidentiality of defense materials, indemnification of the City, cost recovery, and other related provisions.

FISCAL IMPACT:

This agreement supports Blenheim's obligation to defend and indemnify the City in relation to the notices. So, while the agreement does not, by itself, have a fiscal impact, it does re-inforce Blenheim's obligation to ensure that the City's funds are protected in defending the notices and any potential lawsuit.

ENVIRONMENTAL IMPACT:

Approval of the Joint Defense Agreement is not a "project" for purposes of the California Environmental Quality Act ("CEQA") pursuant to the State CEQA Guidelines (Cal. Code Regs., §§ 15000 et seq.). Approval of the Joint Defense Agreement has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. (State CEQA Guidelines, § 15378(a).) Further, the Joint Defense Agreement constitutes an administrative or organizational activity with no potential to result in direct or indirect physical changes in the environment. (State CEQA Guidelines, § 15378(b)(2), (4), and (5).)

PRIOR CITY COUNCIL REVIEW:

Not Applicable.

PRIOR COMMISSION/COMMITTEE/BOARD REVIEW:

Not Applicable.

City Council Agenda Report
June 6, 2017
Page 3 of 3

NOTIFICATION:

Blenheim Facility Management
Parks, Recreation, Youth and Senior Services, Trails and Equestrian Commission

ATTACHMENT(S)

Attachment 1 - Joint Defense Agreement

JOINT DEFENSE AGREEMENT

This JOINT DEFENSE AGREEMENT ("*Agreement*") is made and effective this ____ day of _____, 2017 ("*Effective Date*"), by and among the CITY OF SAN JUAN CAPISTRANO, a California municipal corporation ("*City*"), and the City's attorneys BEST BEST & KRIEGER LLP, a California limited liability partnership, on the one hand, and BLENHEIM FACILITY MANAGEMENT LLC, a Delaware limited liability company ("*BFM*"), and BFM's attorneys _____, a _____ on the other hand (collectively, "*Parties*," and individually, "*Party*").

RECITALS

WHEREAS, Orange County Coastkeeper ("*OCCK*") served a notice of intent to file suit under the Federal Water Pollution Control Act dated March 31, 2017, on the City and BFM and served a supplemental notice on the City and BFM, dated May 4, 2017, which may result in the filing of a lawsuit against the City and/or BFM (collectively, the "*Action*").

WHEREAS, the City owns the real property located at 27174 Ortega Highway, San Juan Capistrano, California 92675, known as the Rancho Mission Viejo Riding Park at San Juan Capistrano ("*Riding Park*"). Pursuant to a series of leases, access and use licenses and management agreements (collectively, "*Management Agreements*") BFM has leased and managed the Riding Park since approximately January 1, 1995. Each Management Agreement since January 1, 2009 has included a requirement that BFM indemnify, defend, and hold the City harmless from and against all liabilities, claims, damages, losses and expenses of any nature whatsoever, including attorneys' fees, arising out of BFM's use of the Riding Park or otherwise arising out of the acts or omissions of BFM.

WHEREAS, based on the claims made by OCCK in the Action, and in light of BFM's role in using and managing the Riding Park, City and BFM have concluded they have common legal interests in defending against OCCK's allegations in the Action, and have and may assert joint and/or common defenses, common claims and/or cross-claims in the Action, and it is in their best interests, and consistent with the law, to cooperate with each other to advance such joint and/or common defenses, claims and/or cross-complaints in the Action without waiving any privilege.

WHEREAS, as a result of the claims asserted by OCCK in the Action, City and BFM desire to share information (including, but not limited to, documents, factual material, mental impressions, memoranda, reports, attorney work product, and other confidential or privileged information) and confidence for the purpose of formulating and implementing a joint and/or common defense effort and/or legal strategy in the Action. Such information, when shared between the Parties under this Agreement, and whether oral or in writing, is referred to herein as "*Defense Materials*".

WHEREAS, City and BFM believe it is appropriate that the undersigned law firms communicate and exchange information, which may include confidential attorney-client communications, work product, and other information that is protected from disclosure to third parties by applicable privileges, doctrines and/or immunities.

WHEREAS, City, on the one hand, and BFM, on the other hand, wish to continue to pursue their separate, but common, interests with respect to the Action and to preserve to the maximum extent possible the attorney-client, work product or other applicable privileges, doctrines, and immunities that they may have, and to participate in this Agreement without diminishing such privileges, doctrines or immunities in any way.

WHEREAS, the City and BFM have considered both the advantages and disadvantages of this Agreement, and acknowledge that the provisions of this Agreement do not override the obligation of their respective attorneys to represent them zealously and to preserve and protect client confidences and secrets.

AGREEMENT

Based upon the foregoing recitals, which are true and correct and incorporated herein by reference, and in consideration of the mutual promises of the Parties, it is hereby agreed as follows:

1. Confidentiality of Defense Materials.

A. In defense of the Action, the Parties may exchange or disclose Defense Materials in furtherance of the City's and BFM's common interests. Defense Materials, and all work performed under this Agreement, and communications amongst the Parties or amongst counsel in connection with the representations of their respective clients, shall be conducted and protected pursuant to the attorney-client, work product, joint defense and/or common interest doctrine recognized by the laws of the State of California and the United States of America. Defense Materials shall be used by the Parties solely for the preparation of the City's and BFM's respective defenses. Neither the Defense Materials nor the information contained therein may be used for any other purpose. Defense Materials may be provided to consultants, investigators, experts, stenographic and clerical personnel, and other persons solely for the purpose of furthering the City's and BFM's mutual interests in the Action. All such persons shall be specifically notified by the Party disclosing the Defense Materials that the Defense Materials and the information contained therein are confidential, subject to the terms of this Agreement and, as applicable, privileged.

B. Unless expressly stated in writing to the contrary, all communications between the Parties concerning the Action are confidential and are protected from disclosure to any entity or individual who is not a party to this Agreement ("**Third Party**") by the joint-defense and/or common interest privilege, the attorney-client privilege, and the work product doctrine. The Party in receipt of any Defense Materials shall not disclose the Defense Materials or any of the information therein to any Third Party without the prior written consent of the Party who disclosed the Defense Materials in the first instance. Such consent may be obtained in writing from that Party's attorney.

C. Any unauthorized disclosure of Defense Materials to any Third Party shall be subject to a joint defense privilege by the other Parties to this Agreement and shall not constitute a waiver of any otherwise available privilege. Any Party shall have the right to seek injunctive relief to prevent a threatened disclosure of confidential materials produced pursuant to

this Agreement, if such disclosure would violate the terms of this Agreement. All Parties agree that there is no adequate remedy at law for a disclosure in violation of this Agreement.

D. If another person or entity requests or demands, by subpoena or otherwise, any Defense Materials, the Party from whom such material is requested or demanded shall immediately notify the other Parties. In addition, the Party from whom Defense Materials are requested or demanded shall, prior to production of the Defense Materials, assert all applicable rights and privileges and shall take all reasonable steps to assure that all other Parties have an opportunity to assert all applicable rights and privileges, prior to production.

E. The City and BFM acknowledge that information known to one of them need not be shared with the other, and that each is entitled to communicate and share information with the other as that Party sees fit.

F. To the extent that any of the Parties communicated with each other concerning the defense of the Action prior to the Effective Date, such communication and any other correspondence, exchanges or disclosures among the Parties have been made to further the common defense of the Action and in full expectation that all such communications would remain confidential and protected from unauthorized disclosure, and such communications now constitute Defense Materials subject to the terms of this Agreement.

G. This Agreement shall not restrict any Party from using in any manner or disclosing information which (a) was or becomes publicly available without breach of the obligation of confidentiality provided in this Agreement, or (b) was or is discovered independently by the receiving Party. However, the fact of communication by one Party to another Party of such documents or information shall be privileged pursuant to the joint defense and/or common interest privilege, and any attorney-client privilege, work product doctrine or immunity shall not be lost, but shall be protected by the joint defense and/or common interest privilege.

H. Defense Materials made under this Agreement shall continue to be confidential and subject to the privileges described herein even if adversity of interest may subsequently be discerned or arise between or amongst any of the Parties to this Agreement.

I. In the event that a Party to this Agreement is dismissed from the Action by reasons of settlement, decision, judgment or otherwise, such Party and its counsel shall not be relieved of its obligations under this Agreement with regard to the treatment of the Defense Materials. At all times after a Party has been dismissed from the Action, the Agreement shall be applicable to all Defense Materials.

2. Defense of City in Action

A. BFM shall indemnify and pay for the reasonable cost of defense (with counsel as provided herein) the City, its officials (appointed or elected), officers, employees, agents, departments, agencies, and instrumentalities thereof in the Action.

B. Counsel for the City shall be Jeffrey S. Ballinger, James Gilpin and Alisha M. Winterswyk of Best Best & Krieger LLP (the "*City Attorney*"). The City's reasonable

attorneys' fees and costs in defending the Action shall be reimbursed by BFM as follows: (i) defense obligation to start as of October 1, 2016; (ii) a separate billing file for litigation shall be opened by the City Attorney; (iii) the time shall be billed in 0.1 hour increments; (iv) City's attorneys' fees and costs shall be invoiced monthly with a statement to BFM redacted to preserve confidential information; and, (v) no cost in excess of \$500 shall be incurred without BFM's prior written approval. Notwithstanding the foregoing, BFM's reimbursement shall be conditioned upon the City's cooperation with BFM in the Action and joint defense of the Project.

C. Counsel for BFM and the City Attorney for the City shall reasonably cooperate with each other in connection with their respective investigations and the Action. City and City Attorney shall provide BFM, its consultants, investigators, experts, and counsel, access to the City's public files and documents upon request during normal business hours.

D. Each Party shall communicate promptly to the other Party any offers received for the settlement of the Action. City shall secure BFM's consent to any settlement. BFM shall secure the City's consent to any settlement. Such consent shall not be unreasonably withheld by either Party.

3. No Admission of Liability or Waiver. This Agreement is not an admission of liability or fault of any Party in reference to any alleged or asserted facts, legal contentions and occurrences that are now or might be alleged with respect to any threatened or asserted claims associated with or in any way related to the Action. Neither this Agreement, nor any information contained in or submitted under this Agreement, nor any action taken by any Party pursuant to this Agreement, shall constitute, be interpreted, construed, or used as evidence of any admission of liability, law, or fact, waiver of any right or defense, nor as an estoppel, against any Party by any other Party or by any Third Party. The Parties further acknowledge that all future discussions between the Parties concerning the resolution of the Action shall be considered settlement discussions protected under California Evidence Code section 1152, except for public hearings and/or public documents regarding the Action.

4. No Third Party Beneficiary. Except as specifically provided herein, nothing in this Agreement shall waive, release, or otherwise affect any right, claim, defense, interest, or cause of action that any Party may have with respect to any Third Party. This Agreement is not intended for the benefit of any Third Party and shall not be enforceable by any party who is not a Party.

5. No Creation of Attorney-Client Relationship. Nothing in this Agreement is intended to create an attorney-client relationship between any attorney and anyone other than the Party who is a client of that attorney. The fact that an attorney has entered into or agreed to be bound by this Agreement shall not in any way preclude that attorney from advocating any interest of the Party who is his or her client that may be adverse to any other Party, and shall not be used as a basis for seeking to disqualify any counsel from representing the Party who is a client of that attorney in any proceeding. It is further understood that the obligations of this Agreement might, in the future, create a potential or actual conflict of interest such that one Party shall not be able to cross-examine another Party in this Action or in other proceedings through the use of Defense Materials, unless such materials were also obtained from independent sources not subject to this Agreement, and even though cross-examination through the use of such Defense Materials may be in the Party's interest. The rights and obligations under this paragraph

shall survive the termination of this Agreement and shall continue to bind each Party after that Party's withdrawal from this Agreement or dismissal from the Action or other proceedings, and after termination of this Agreement.

6. No Joint Venture. This Agreement does not form a joint venture or partnership by or among the Parties.

7. Amendment. No part of this Agreement may be modified, altered, amended, waived, or changed without the express written consent of the Parties hereto.

8. Notice. All notices under this Agreement must be in writing. Notice is given either (i) when delivered in person to the person or company intended named below, or (ii) when sent via reputable overnight courier (such as Federal Express), addressed by name and addressed to the party or persons intended, as follows, until such time as a party gives notice of a change of address in accordance with the terms of this section:

BFM

Attn: _____
Blenheim Facility Management Corporate

Phone: _____

City

Attn: Ben Siegel, City Manager
San Juan Capistrano City Hall
32400 Paseo Adelanto
San Juan Capistrano, CA 92675
Phone: (949) 493-1171

BFM's Attorneys

Attn: _____

City Attorney

Attn: Jeffrey S. Ballinger, Esq.
Best Best & Krieger
655 West Broadway
15th Floor
San Diego, CA 92101
Phone: (619) 525-1343

9. Default. In the event that there is a default by either party to this Agreement (the "Defaulting Party") with respect to any of the provisions of this Agreement, the other party (the "Non-Defaulting Party") shall give the Defaulting Party written notice of such default in accordance with the above provisions. After receipt of such written notice, the Defaulting Party shall have fifteen (15) days in which to cure any monetary default and thirty (30) days in which to cure any non-monetary default. The Defaulting Party shall have such extended periods as may be required beyond the thirty (30) day cure period to cure any non-monetary default if the nature of the cure is such that it reasonably requires more than thirty (30) days to cure, and Defaulting Party commences the cure within the third (30) day period and thereafter continuously and diligently pursues the cure to completion. The Non-Defaulting Party may not maintain any action or effect any remedies for default against the Defaulting Party unless and until the Defaulting Party has failed to cure the same within the time periods provided in this Section.

10. **Assignment.** This Agreement shall not be assigned by either Party, either in whole or in part, without the prior written consent of the non-assigning Party. Any assignment or purported assignment of this Agreement without the prior written consent of the non-assigning Party will be deemed void and of no force or effect.

11. **Interpretation.** The Parties hereto have negotiated this Agreement at arm's length and have been advised by their respective attorneys, and no provision contained herein shall be construed against any Party.

12. **Authority to Execute.** The individuals executing this Agreement each represent and warrant that they have the legal power, right and actual authority to bind their respective Parties to the terms and conditions hereof.

13. **Counterparts.** The Parties may execute duplicate originals (counterparts) of the Agreement or any other documents that they are required to sign or furnish pursuant to the Agreement.

14. **Severability.** If any provision of this Agreement is found invalid or unenforceable, the balance of this Agreement shall remain in full force and effect.

15. **Term.** This Agreement shall terminate as to all Parties on the date on which the earlier of the following events occurs: entry of final judgment in the Action; dismissal of all causes of action as to all Parties in the Action; settlement of the Action as to each and every Party (the "**Termination Date**"). Any Party may terminate this Agreement effective upon written notice of termination to all other Parties. After termination, the Parties shall continue to preserve the confidentiality of all Defense Materials and this Agreement, in the manner set forth herein.

16. **Entire Agreement.** As of the Effective Date, no other agreements, express or implied, have been made by the parties to this Agreement concerning the subject matter herein. All prior and contemporaneous conversations, negotiations and possible or alleged agreements concerning the subject matter herein are merged and integrated in this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY OF SAN JUAN CAPISTRANO

BEST BEST & KRIEGER LLP

By: Ben Siegel
City Manager

By: Jeffrey S. Ballinger

ATTEST:

By: Maria Morris, CMC
City Clerk

BLENHEIM FACILITY MANAGEMENT LLC,
a Delaware limited liability company

[LAW FIRM NAME]

By:
Title:

By:

EXHIBIT D

Rancho Mission Viejo Riding Park - Google Maps

3/31/2017

Google Maps Rancho Mission Viejo Riding Park



Imagery ©2017 Google, Map data ©2017 Google 200 ft

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EXHIBIT E

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION
ORDER NO. R9-2014-0041
(ATTACHMENT A)



NOTICE OF INTENT
TO COMPLY WITH THE CONDITIONAL WAIVERS OF WASTE DISCHARGE
REQUIREMENTS FOR LOW THREAT DISCHARGES IN THE SAN DIEGO REGION

I. PROPERTY/FACILITY INFORMATION

Property/Facility Name: Rancho Mission Viejo Riding Park at San Juan Capistrano			
Property/Facility Contact: Melissa Brandes, VP Operations and Marketing			
Property/Facility Address: 30753 La Pata Avenue			
City: San Juan Capistrano	County: Orange	State: CA	Zip: 92675
Telephone: 949-234-1695	Fax: N/A	Email: melissbrandes@aol.com	
Assessor Parcel Number(s):		Hydrologic Area/Subarea: 901.28	

II. PROPERTY/FACILITY OWNER INFORMATION

Property/Facility Owner Name: City of San Juan Capistrano			
Property/Facility Owner Mailing Address: 32400 Paseo Adelanto			
City: San Juan Capistrano	County: Orange	State: CA	Zip: 92675
Telephone: 949-493-1171	Fax: N/A	Email: cView@sanjuancapistrano.org	

III. PROPERTY/FACILITY OPERATOR INFORMATION

Property/Facility Operator Name: Melissa Brandes, VP Operations and Marketing			
Mailing Address: PO Box 639			
City: San Juan Capistrano	County: Orange	State: CA	Zip: 92693
Telephone: 949-234-1695	Fax: N/A	Email: melissbrandes@aol.com	

IV. CONDITONAL WAIVER FOR NOTICE OF INTENT

Mark (X) the waiver proposed for the discharge:

<input type="checkbox"/> Waiver No. 1 - Discharges from on-site graywater disposal systems
<input type="checkbox"/> Waiver No. 2 - Discharges of recycled water to land
<input type="checkbox"/> Waiver No. 3 - "Low" threat discharges to land
<input type="checkbox"/> Waiver No. 4 - Discharges of winery waste to lined evaporation ponds wineries
<input type="checkbox"/> Waiver No. 5 - Discharges of wastes at composting facilities
<input type="checkbox"/> Waiver No. 6 - Discharges from silvicultural operations
<input checked="" type="checkbox"/> Waiver No. 7 - Discharges from animal operations
<input type="checkbox"/> Waiver No. 8 - Discharges from aquatic animal production facilities
<input type="checkbox"/> Waiver No. 9 - Discharges of slurries to land
<input type="checkbox"/> Waiver No. 10 - Discharges/disposal of solid wastes to land
<input type="checkbox"/> Waiver No. 11 - Aerially discharged wastes over land
<input type="checkbox"/> Waiver No. 12 - Discharges of emergency/disaster related wastes

V. DESCRIPTION OF DISCHARGE

Describe the discharge (i.e., source(s) of discharge, pollutants of concern, period and frequency, etc.). Use additional pages as needed. Provide a map of the property/facility if necessary. See Additional Pages

NOTICE OF INTENT FOR CONDITIONAL WAIVERS

VI. DESCRIPTION OF MANAGEMENT MEASURES/BEST MANAGEMENT PRACTICES

Describe what management measures (MMs) and best management practices (BMPs) will be implemented to minimize or eliminate the discharge of pollutants to waters of the State. Use additional pages as needed. Provide a map of the property/facility showing locations of MMs/BMPs if necessary.

See Additional Pages

VII. ADDITIONAL INFORMATION

Please provide additional information, as needed or required, about the discharge and/or how the discharger intends to comply with the waiver conditions of the waiver. Use additional pages as needed.

See Additional Pages

VIII. CERTIFICATION

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Melissa Brandes

Signature (Owner or Authorized Representative)

2/28/17

Date

Melissa Brandes

Print Name

V.P. of Operations and Marketing

Title

949-212-8556

Telephone Number

mellssbrandes@aol.com

Email

Additional Pages for:

***Notice of Intent to Comply with the Conditional Waiver of Waste Discharge Requirements for
Low Threat Discharges in the San Diego Region.***

Rancho Mission Viejo Riding Park at San Juan Capistrano

V. Description of Discharge.

1. Facility Information.

The Rancho Mission Viejo (RMV) Riding Park at San Juan Capistrano (collectively "Riding Park") in the City of San Juan Capistrano is a short-term multi-use sports and exhibition facility. Activities within the Riding Park include youth and adult soccer, community outreach events, and equestrian shows.

An overview of the Riding Park and the land use practices within the park are shown in Figure 1-1. The Riding Park is 60.2 acres in size and the various land uses areas within the park are listed below in Table 1-1.

Table 1-1. Riding Park Land Uses and Areas (in acres).

Land Use	Area (acre)	Percent of Total Area
Multi-Sport Field	23.9	39.7%
Exhibition Arena	10.0	16.6%
Stables	9.9	16.4%
Parking Lot	9.0	15.0%
Storage Area	4.5	7.5%
Workshop and Offices	2.9	4.8%
Overall Riding Park	60.2	100%

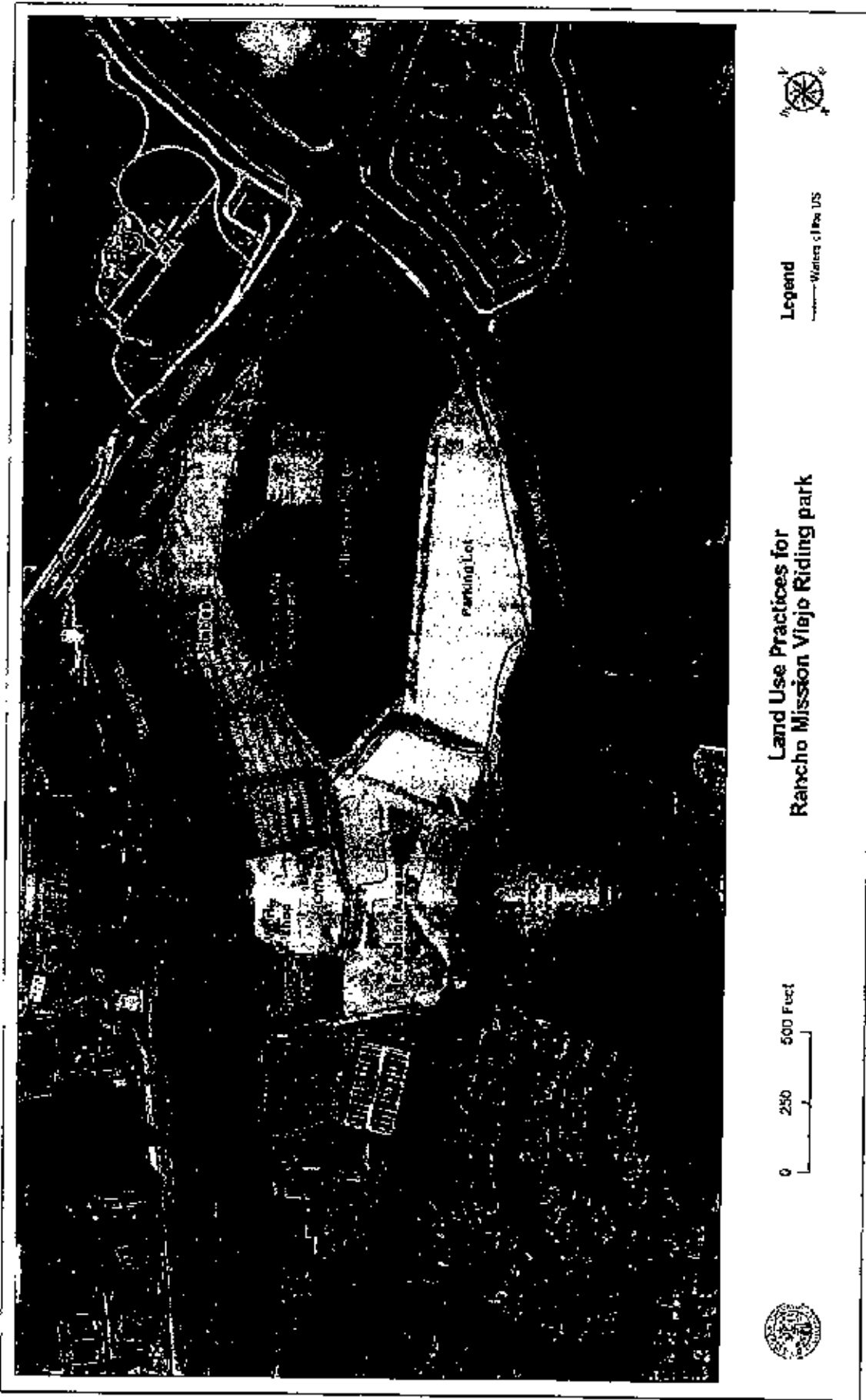
Note to Table 1-1. (%) means percent.

2. Sources of Discharge.

Discharge sources within the Riding Park include the following:

- a) Non-stormwater based discharges from the following sources:
 - Multi-Sport Field irrigation
 - Potable line (hose) connections to campers
 - Spills and leaks from Portable toilets
 - Equine (Horse) Wash Racks
 - Spills and leaks from onsite wastewater holding tank (office complex)
- b) Stormwater based discharges as a result of precipitation

Figure 1-1. Rancho Mission Viejo Riding Park Overview and Land Use Map.



RMV Riding Park at San Juan Capistrano
Conditional Waiver WDR Permit Add'l Pages
For the Waiver 7 Notice of Intent

3. Pollutants of Concern

a) Regulatory Listed Pollutants of Concern

The RMV Riding Park is located within the San Juan Creek watershed. San Juan Creek has an established TMDL for indicator bacteria, and the waterbody is listed on the 2010 Clean Water Act section 303(d) list for Total Nitrogen, Phosphorus, Organochlorine pesticides (DDP), Selenium, and Toxicity.

b) Period and Frequency of Pollutant Generating Activities

Soccer and community outreach events held at the Riding Park range in time from one (1) to seven (7) days in duration, as defined by the move-in until move-out date. The event dates and duration of each event are provided in Attachment 1 and the schedule is titled "Blenheim Facility Management Event Schedule."

Equestrian services provided at the Riding Park are limited to short-term stable rentals and exhibition arenas for events. The Riding Park provides "over-night" hotel-like accommodations and does not provide a continuous year-round type of boarding service as provided by a traditional equestrian facility. The Riding Park also does not provide any open fields suitable for grazing.

The Conditional Waiver Waste Discharge Requirement (WDR) permit includes two definitions of Animal Feeding Operations (AFO), based on year-round boarding of horses, as follows.

Table 3-1. Conditional Waiver WDR Allowed Annual Number of Horse-Days.

AFO Category	Allowed Days per Calendar Year	No. of Horses Boarded Per Day	Allowed Number of Horse-Days Per Year
Small AFO	365	299	109,135
Medium AFO	365	999	364,635

Notes to Table 3-1. AFO = Animal Feeding Operation. Horse-Days are defined as the number of horses present on site multiplied by the number of days each horse is present (# Horses X # Days = # Horse-Days). Leap year allowed limits are 109,434 horse-days for small sized AFOs and 365,634 horse-days for medium sized AFOs.

The Riding Park holds approximately twenty-five (25) events per year ranging in time from three (3) to eighteen (18) days in duration, as defined by the move-in until move-out date. The event dates and duration of each event are provided in Attachment 1 and the schedule is titled "Blenheim Facility Management Event Schedule.

A summary of the events, event dates, and the number of horses present at the park during calendar year 2016 is presented in Table 3-2.

Table 3-2. RMV Riding Park Equestrian Annual Schedule of Events and Number of Horses Present.

Event Title	Move-In Date	Move-Out Date	Number of Event Days	Horses Present	Horse Days
Orange County Interscholastic Eq League (IEL 7&8)	1/15/2016	1/17/2016	3	76	228
Blenheim Spring Classic I	3/21/2016	3/28/2016	8	290	2,320
Blenheim Spring Classic II	3/28/2016	4/4/2016	8	516	4,128
Dressage - Festival of the Horse (SF Spring Festival)	3/31/2016	4/2/2016	3	290	870
Blenheim Spring Classic III	4/4/2016	4/11/2016	8	766	6,128
Blenheim Spring Classic IV	4/11/2016	4/18/2016	8	704	5,632
Victory Horse Show #1	5/20/2016	5/22/2016	3	186	558
Blenheim June Classic I	6/6/2016	6/13/2016	8	810	6,477
Blenheim June Classic II	6/13/2016	6/20/2016	8	719	5,752
Blenheim June Classic III	6/20/2016	6/27/2016	8	612	4,896
Blenheim Red White & Blue Classic	6/27/2016	7/3/2016	7	364	2,548
Victory Horse Show #2	7/15/2016	7/17/2016	3	129	387
Robin Seifass/Victory III	8/5/2016	8/7/2016	3	160	480
Blenheim Summer Classic	8/15/2016	8/22/2016	8	491	3,928
Rancho Mission Viejo Rodeo*	8/22/2016	9/7/2016	2*	500	1,000
Victory Horse Show #4	9/9/2016	9/11/2016	3	105	315
Blenheim Fall Tournament	9/12/2016	9/19/2016	8	549	5,192
Blenheim Int. Jumping Festival	9/19/2016	9/26/2016	8	456	3,208
Victory Horse Show 5	9/30/2016	10/2/2016	3	83	249
Orange County Horse Show Association (OCHSA Finals)	10/10/2016	10/17/2016	8	235	1,880
OC Interscholastic Equest. League (IEL 1&2)	10/28/2016	10/30/2016	3	93	279
OC Interscholastic Equest. League (IEL 3&4)	11/18/2016	11/20/2016	3	85	255
OC Interscholastic Equest. League (IEL 5&6)	12/2/2016	12/4/2016	3	89	267
Anticipated Incidental Layover Stall Rentals			330	15	4,950
Total					66,927

Notes to Table 3-2. The Rancho Mission Viejo Rodeo is seventeen (17) days in duration to allow for stables, arenas, and other structural set ups. The actual number of days in which animals are present is two (2) days.

RMV Riding Park at San Juan Capistrano
Conditional Waiver WDR Permit Add'l Pages
For the Waiver 7 Notice of Intent

VI. Description of Management Measures and Best Management Practices

The pollutants of concern in the discharges to waters of the State are pathogens, coliform bacteria, nitrogen, and phosphorus. The Riding Park does not have activities or pollutant sources that generate organochlorine pesticides (DDT) or Selenium and the Riding Park is not a source of these pollutants. Toxicity is a surface water related issue in regards to the 303(d) listing for San Juan Creek and the Riding Park's discharges to the water of State are not relevant to the Toxicity listing.

The following sections describe the management measures (MM) and best management practices (BMP) intended to control and minimize the discharge of pathogens, coliform bacteria, nitrogen, and phosphorus. The following section focuses on MM/BMP measures for pathogens and coliform bacteria, but the MM/BMP measures are intended to equally apply to the other pollutants of concern listed in the preceding section.

a) Equine MM and BMPs

Equine related pollutant generating activities are limited to the Stables and the Exhibition Arena. The Exhibition Arena provide a location for shows and community events. Animal waste generated within the Exhibition Arena are removed immediately and the Riding Park does not hold events on rainy days. The information provided in this section of the application is in regards to the Stable area which is the primary pollutant generating area.

i. Equine Manure Management.

Equine manure management measures implemented for the Riding Park includes several practices which are:

- Manure and urine waste generated within the stalls are combined with bedding material to absorb the fluids created by the animals,
- Stalls are routinely mucked during events and generated waste are temporarily stored in metal roll-away bins provided by a locally contracted solid waste hauler, and
- The Riding Park maintains extra bins at all times to avoid overfilling and to provide waste collection bins at multiple locations throughout the park to help visitors avoid spilling waste on the ground.

An example of the metal construction based roll-away bins provided by CR&R solid waste management services is shown in the Figure 3-1w.

Figure 3-1. Example of Covered Roll-Away Temporary Storage Bin for Manure Management.



Note ramp at front indicating bins is elevated above the ground.

The contracted waste hauling service removes filled bins on an as-needed basis during events or the service will remove filled bins on an approximately seven (7) to fourteen (14) day rotation schedule, depending on the anticipated need for near-future events.

Equine manure waste generated during the storm season (October 1 to April 30) are stored in the roll-away bins that includes a plastic non-permeable cover. An example of a covered waste storage bins is shown in Figure 3-2.

Figure 3-2. Example of a Covered Roll-Away Temporary Manure Storage Bin during the Storm Season.



Storm event produced runoff flows paths observed at the Riding Park (see Section IV.b.ii) and filled temporary storage bins are located more than 100 linear feet from the nearest surface water body.

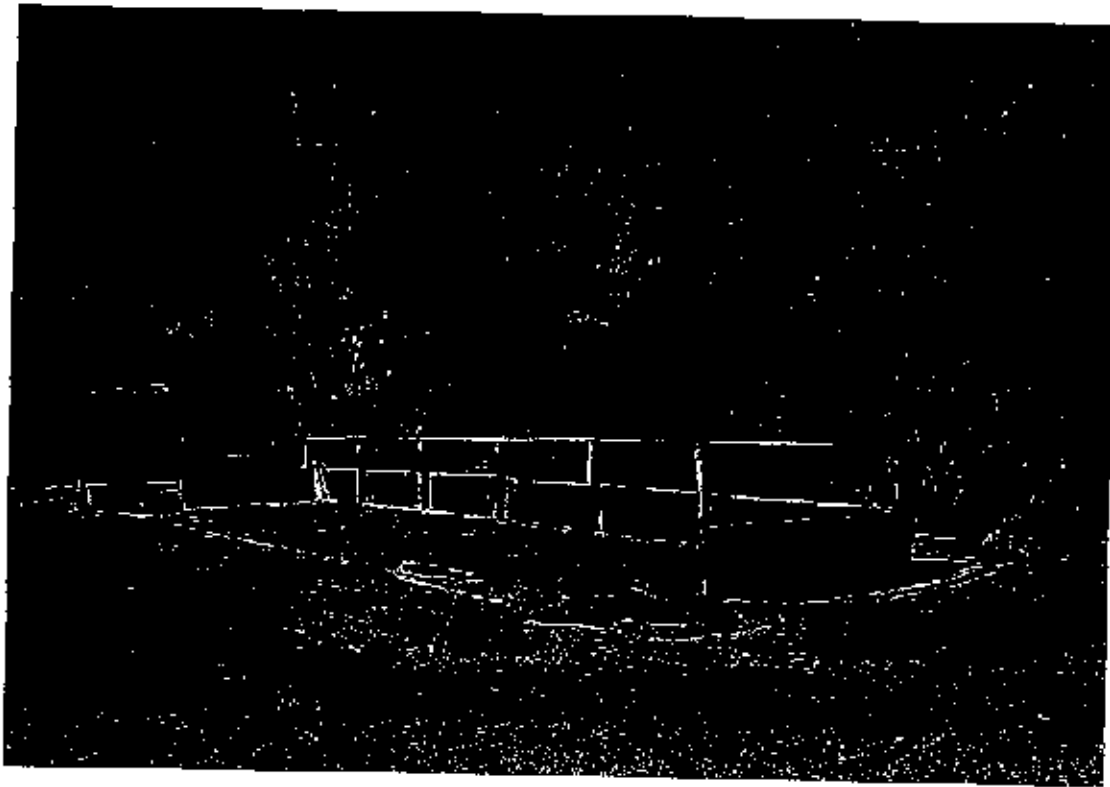
b) Equine-Related Non-Stormwater and Stormwater Best Management Practices.

1. Equine-Related Non-Stormwater BMPs.

The equine-related non-stormwater discharge elimination procedures implemented at the Riding Park focuses on best management practices for the wash racks. The implementation plan for the wash racks includes a plan for short-term and long-term structural BMPs.

An example of the equestrian facility wash racks is shown below in Figure 3-3.

Figure 3-3. Example of the Equine Wash Racks located at the RMV Riding Park.



The short-term BMP plan for managing non-stormwater discharges from the wash rack focuses on installation of 3,000 gallon storage tanks located at each wash station. The temporary storage tanks will be connected to the wash rack drainage inlets and wastewater generated onsite will be disposed into the sanitary sewer or re-applied onsite for dust control following treatment. Additional details on the design and operation of the wash rack holding tanks is provided in Attachment 2.

In the fall of 2017, the City of San Juan Capistrano intends to begin construction of a long-term structural BMP for capture wash rack discharges. The City of San Juan Capistrano Utilities Division is in the planning phases of a capital project to construct and install a sanitary sewer collection system pipeline on the Riding Park grounds. Wastewater flows generated within the Riding Park, including the wash racks, will be permanently routed into the City's sanitary sewer system once the pipeline construction project is completed. The temporary holding tanks will continue to be used for managing wash rack discharges until such time that the sanitary sewer connection is established.

ii. Equine-Related Stormwater Best Management Practices

A series of photographs shown in Figure 3-4 to 3-6 document the wet weather runoff patterns for the Riding Park.

Stables are covered to direct precipitation away from horses and to exclude precipitation from the stalls to eliminated potential discharges of manure. Earthen berms constructed along the foundation were designed to keep water out the stalls and to prevent potential stormwater related discharges of pathogens and coliform bacteria.

Stormwater runoff generated as a result of precipitation within the Stable area of the Riding Park either infiltrates into soil around the stables or excess runoff is directed towards the Multi-Sport Field as indicated by the photographs shown in Figure 3-4 to Figure 3-6.

Figure 3-4. Example of the RMV Riding Park Stables and Stormwater Runoff Control Practices. Earthen berms at the base of stable structures were installed to prohibit runoff from entering the stalls.



Figure 3-5. Example of the Riding Park Stables and Stormwater Runoff Control Practices.

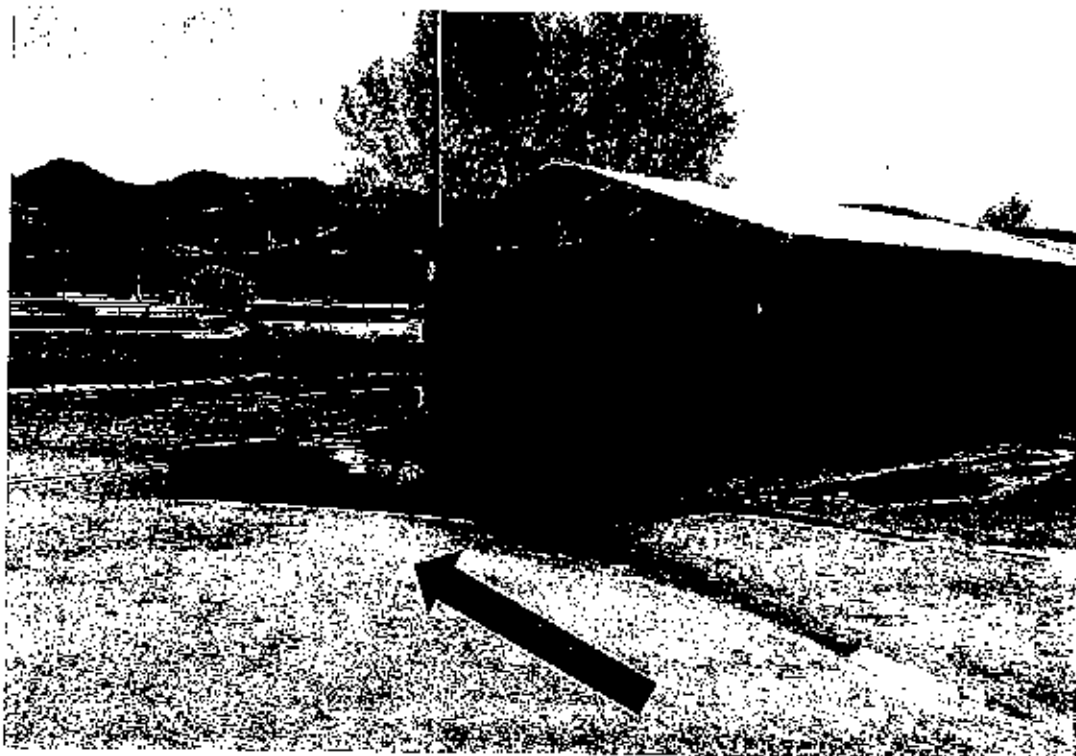


Figure 3-6. Example of the Riding Park Stables and Stormwater Runoff Management Practices.



Stormwater runoff collected within the Stable area between the stalls and San Juan Creek pools along the building structures and flows laterally towards the east and west end of the property as indicated in Figure 3-7.

The stable area currently has limited capacity to accommodate excess runoff as a result of high intensity rainfall or storm events persisting for an extended amount of time.

Beginning in the fall of 2017, the City of San Juan Capistrano intends to begin construction on the East Trail Extension Project. The purpose of the East Trail extension project is to provide a recreational trail for pedestrian, bicycle, and equestrian users. The trail extension design includes the construction and installation of stormwater capture and reuse swales and infiltration wells. The stormwater BMP features are presented in detail in Attachment 3.

The new trail through the Riding Park will include a Low Impact Development design consisting of a series of new drainage inlets connected to infiltration wells. Technical details on the East Trail Extension Project LID elements are provided in Attachment 3. The Riding Park stormwater capture and reuse system is designed to accommodate up to the 25-year storm event.

iii. Stormwater BMP Effectiveness Inspections.

Rainfall totals recorded during fiscal years 2014-2015 and 2015-2016 led to below-average rainfall amounts and the storm events during those years did not produce a substantial amount of runoff within the Riding Park and similar open space properties within the City of San Juan Capistrano's jurisdiction.

The 2016-2017 fiscal year rainfall total is currently greater than the previous two years and the increased amount of precipitation and duration of the storm events will provide additional opportunities to inspect and evaluate stormwater runoff patterns within the Riding Park. The information gathered from these ongoing inspections are helping to continue assessing drainage pathways and can be used to evaluate the effectiveness of the new stormwater capture and infiltration system constructed during calendar year 2017.

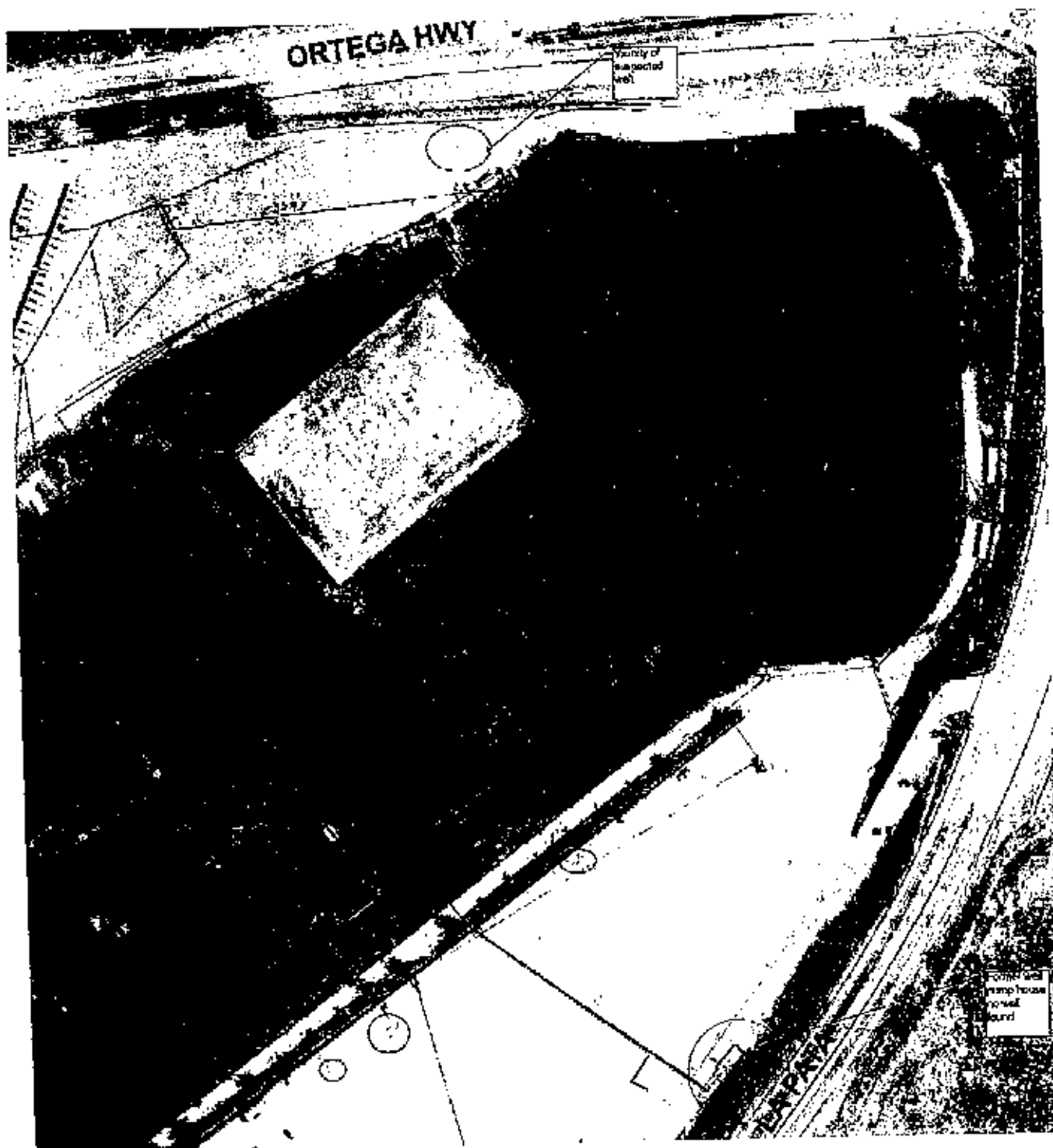
Figure 3-7. Stormwater Drainage Pathways for Precipitation Accumulated at the Stables near San Juan Creek.



iv. Municipal Water Supply Wells in Vicinity of the Riding Park.

The municipal water supply wells believed to have existed, or that were previously located within the Riding Park are shown in Figure 3-8. A location suspected of having a well is shown at the top of the map. No well structure has been located to date. A former well, shown at the bottom of the map, appears to have been removed and no physical structure is located at that site presently.

Figure 3-8. Water Supply Well Location Map in the Vicinity of the Riding Park.



Note on Figure 3-8. Red lines on map indicate location of water supply system pipes.

b) Human-Associated Waste MM and BMPs

i. Onsite waste generation.

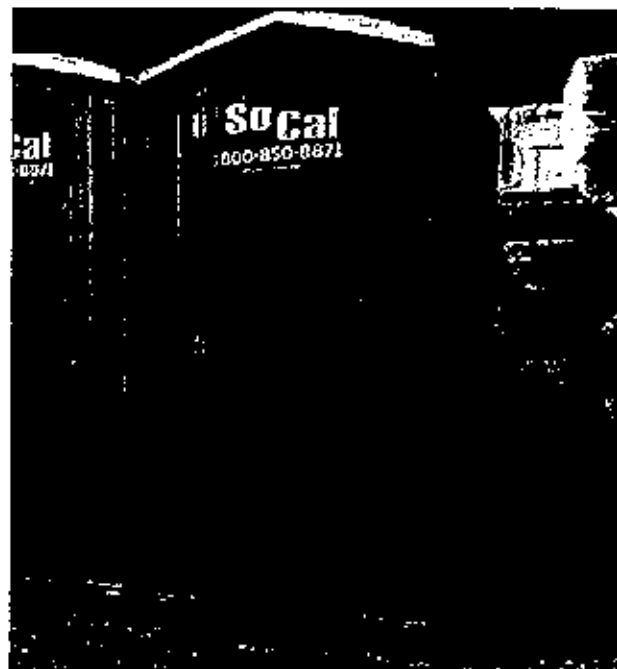
The onsite office complex includes restroom facilities for staff. Currently, wastewater flows generated from the office are held in an underground storage tank and BFM has contracted an outside professional service provider to maintain the wastewater tank. Tank pumping services are performed twice per week by the contracted services to ensure the holding tank does not exceed the design capacity.

The City of San Juan Capistrano Utilities Department is currently in the planning phases of a capital project to construct and install a sanitary sewer collection system pipeline on the Riding Park grounds. Wastewater flows generated within the Riding Park will be permanently routed into the City's sanitary sewer system.

ii. Event-based waste generation.

The public who attend the Riding Park events are provided portable toilets as shown in Figure 3-9. Contracted services provide portable toilets on an as-needed basis and the number of individual structures depends on the size and duration of the event. Pumping services are provided throughout an event to ensure the holding tanks do not exceed the design capacity and the portable restroom facilities are removed at the completion of the event.

Figure 3-9. Example of Portable Toilet and a Spill Prevention BMPs.



Additional control measures for managing non-stormwater related issues from portable toilets includes locating restroom facilities on the perimeter of the multi-sport and parking lot grass fields to direct potential spills and leaks into vegetated areas, and to prevent discharges onto impermeable surfaces.

The City of San Juan Capistrano Municipal Code 3-3.553(f) prohibits extended stays of campers and camper trailers. Overnight accommodations for the public participating in the equestrian events is limited to 10 days and patrols are conducted by the City of San Juan Capistrano Code Compliance Officers to ensure visitors maintain compliance with the local ordinance. The Riding Park does not provide an onsite sanitary sewer pump-out service for the camper and camper trailer sanitary sewer tanks.

Attachment 1.

Blenheim Facility Management Event Schedule

For the

2016 and 2017 Calendar Years

Table A1-1. 2016 Blenheim Facility Management Event Schedule

2016	MOVE IN	EVENT DATES	MOVE OUT	EVENTS:	AREA STATUS:	
				*Equestrian, *Tournament Dates (Sports), *Community Event	GRASS FIELDS	SAND RINGS
January		Jan 1-2			GRASS Fields Maintenance	
	9-Jan	Jan 9 (Sat.)	9-Jan	EQUESTRIAN: EquiSports - No Show	GRASS Fields Maintenance	Sand Rings: Olympic Ring & Hunter 1
	15-Jan	Jan 16-17	17-Jan	EQUESTRIAN: Orange County Interscholastic Eq League (IEL 7&8)	GRASS Fields Maintenance	All Sand Rings
		Jan 23-24			GRASS Fields Maintenance	
		Jan 30-31			GRASS Fields Maintenance	
February		Feb 6-7			GRASS Fields Maintenance	
	13-Feb	Feb 13-14	16-Feb		GRASS Fields Maintenance	
	20-Feb	20-Feb	20-Feb	EQUESTRIAN: EquiSports - No Show	GRASS Fields Maintenance / Rest	Sand Rings: Olympic Ring & Hunter 1
		Feb 27-28			GRASS Fields Maintenance / Rest	
March		Mar 5-6			GRASS Fields Maintenance / Rest	
		Mar 12-13			GRASS Fields Maintenance / Rest	
		Mar 19-20			GRASS Fields Maintenance / Rest	
Easter Sun. 3/27	21-Mar	Mar 22-26	28-Mar	EQUESTRIAN: Blenheim Spring Fling	All Grass Rings	All Sand Rings
	28-Mar	Mar 30-Apr 3	4-Apr	EQUESTRIAN: Blenheim Spring Classic I	All Grass Rings	All Sand Rings
	29-Mar	Mar 31-Apr 2	2-Apr	EQUESTRIAN: Dressage - Festival of the Horse	Shared Event - see above	Sand Rings: Olympic, Hunter II, & Dixon

Table A1-1. 2016 Blenheim Facility Management Event Schedule

2016	MOVE IN	EVENT DATES	MOVE OUT	EVENTS	AREA STATUS	
				Equestrian Tournament Dates (Sports) (Community Event)	GRASS FIELDS	SAND RINGS
April		Mar 30-Apr 3	4-Apr	EQUESTRIAN: Blenheim Spring Classic I	All Grass Rings	All Sand Rings
		Mar 31-Apr 2	2-Apr	EQUESTRIAN: Dressage - Festival of the Horse	Shared Event - see above	Sand Rings: Olympic, Hunter II, Edison
	4-Apr	April 6-10	11-Apr	EQUESTRIAN: Blenheim Spring Classic II	All Grass Rings	All Sand Rings
	11-Apr	April 13-17	18-Apr	EQUESTRIAN: Blenheim Spring Classic III	All Grass Rings	All Sand Rings
		Apr 23-24			GRASS Fields Maintenance	
		Apr 30-May 1			GRASS Fields Maintenance	
May		Apr 30-May 1			GRASS Fields Maintenance	
		May 7-8			GRASS Fields Maintenance	
		May 14-15			GRASS Fields Maintenance	
	20-May	May 21-22	22-May	EQUESTRIAN: Victory Horse Show 1	GRASS Fields Maintenance / Rest	All Sand Rings
		May 28-29			GRASS Fields Maintenance / Rest	
June	1-Jun	June 2-5	6-Jun	EQUESTRIAN: Blenheim June Jamboree	All Grass Rings	All Sand Rings
	6-Jun	June 8-12	13-Jun	EQUESTRIAN: Blenheim June Classic I	All Grass Rings	All Sand Rings
	13-Jun	June 15-19	20-Jun	EQUESTRIAN: Blenheim June Classic II	All Grass Rings	All Sand Rings
	20-Jun	June 22-26	27-Jun	EQUESTRIAN: Blenheim June Classic III	All Grass Rings	All Sand Rings
Holiday: July 4th	27-Jun	Jun 29-July 3	5-Jul	EQUESTRIAN: Blenheim Red White & Blue Classic	All Grass Rings	All Sand Rings

Table A1-1. 2016 Blenheim Facility Management Event Schedule

2016	MOVE IN	EVENT DATES	MOVE OUT	EVENTS	ARHA STATUS	
				Equestrian Tournament Dates (Sports) Community Event	GRASS FIELDS	SAND RINGS
July		6/29 - July 3		EQUESTRIAN: Blenheim Red White & Blue	All Grass Rings	All Sand Rings
		July 9-10			GRASS Fields Rest	
	15-Jul	July 16-17	17-Jul	TOURNAMENT DATES: Slammer's Soccer	Shared Event Dates - see below	
	15-Jul	July 16-17	17-Jul	EQUESTRIAN: Victory Horse Show 2	Shared Event Dates	All Sand Rings
	22-Jul	July 23-24	24-Jul	TOURNAMENT DATES: Pat's Cup Soccer		
		July 30-31			Not Available Event Below	
		July 29 (pm), July 30		COMMUNITY EVENT: Two-Stepping Under the Stars	Kids Day Area/Grass Field: (7/29 - Sponsor Appreciation) (7/30 - Community Event Day)	
August	5-Jul	Aug 6-7	7-Aug	EQUESTRIAN: Robin Serfass	Grass Field: (1) Grass Ring	All Sand Rings
	15-Aug	Aug 17-21	22-Aug	EQUESTRIAN: Blenheim Summer Classic	All Grass Rings	All Sand Rings
	22-Aug	Aug 27-28	2-Sep	COMMUNITY EVENT: Rancho Mission Viejo Rodeo	All Grass Field	Not Available
September	2-Sep	Sept 3-4			GRASS Fields Rest	
	9-Sep	Sept 10-11	11-Sep	EQUESTRIAN: Victory Horse Show 4	GRASS Fields Rest	All Sand Rings
	12-Sep	Sept 14-18	19-Sep	EQUESTRIAN: Blenheim Fall Tournament	All Grass Rings	All Sand Rings
	19-Sep	Sept 21-25	26-Sep	EQUESTRIAN: Blenheim Int. Jumping Festival	All Grass Rings	All Sand Rings

Table A1-1. 2016 Blenheim Facility Management Event Schedule

2016	MOVE IN	EVENT DATES	MOVE OUT	EVENTS:	ARHA STATUS:	
				*Equestrian *Tournament Dates (Sports) *Community Event	GRASS FIELDS	SAND RINGS
October	30-Sep	Oct 1-2	3-Oct	TOURNAMENT DATES: SCDSL Soccer	Shared Event Dates - see below	All Sand Rings
	30-Sep	Oct 1-2	2-Oct	EQUESTRIAN: Victory Horse Show 5		All Sand Rings
	7-Oct	Oct 8-9	10-Oct	TOURNAMENT DATES: SCDSL Soccer		
	14-Oct	Oct 15-16	13-Oct	TOURNAMENT DATES: SCDSL Soccer		All Sand Rings
	10/10 & 10/11 Warmup	Oct 12-16	17-Oct	EQUESTRIAN: Orange County Horse Show Association (OCHSA Finals)	Shared Event Dates - see above	All Sand Rings
	21-Oct	Oct 22-23	24-Oct	TOURNAMENT DATES: SCDSL Soccer		All Sand Rings
	28-Oct	Oct 29-30	31-Oct	TOURNAMENT DATES: SCDSL Soccer		
	28-Oct	Oct 29-30	30-Oct	EQUESTRIAN: IEL 1 & 2	Shared Event Dates - see above	All Sand Rings
November	4-Nov	Nov 5-6	7-Nov	TOURNAMENT DATES: SCDSL Soccer		
	11-Nov	Nov 12-13	14-Nov	TOURNAMENT DATES: SCDSL Soccer		
	18-Nov	Nov 19-20	21-Nov	TOURNAMENT DATES: SCDSL Soccer		
Thanksgiving 11/24		Nov 26-27				
December	2-Dec	Dec 3-4	5-Dec	TOURNAMENT DATES: SCDSL Soccer		All Sand Rings
Last Weekend d Soccer	9-Dec	Dec 10-11	13-Dec	TOURNAMENT DATES: Albion OC		

Table A1-1. 2016 Blenheim Facility Management Event Schedule

2016	MOVE IN	EVENT DATES	MOVE OUT	EVENTS	AREA STATUS	
				*Equestrian *Tournament Dates (Sports) *Community Event	GRASS FIELDS	SAND RINGS
can take place.						
		Dec 17-18			GRASS Fields Maintenance / Rest	
		Dec 24-25			GRASS Fields Maintenance / Rest	

The 2016 event schedule provided in this attachment is representative of events on an annual basis, and the calendar year 2017 schedule will be similar in terms of number of events and the type of activities that will occur during those times.

Table A1-2. 2017 Blenheim Facility Management Event Schedule

Month	MOVE IN	EVENT DATES	MOVE OUT	EVENTS:	AREA STATUS:	
				*Equestrian *Tournament Dates (Soccer) *Community Event	GRASS FIELDS	SAND RINGS
January		Jan 7-8			GRASS Fields Maintenance	
Cancelled due to rain forecast		Jan 14-15		EQUESTRIAN: Orange County Interscholastic Eq League (IEL 3&4)	GRASS Fields Maintenance	Cancelled
Cancelled due to rain forecast		21-Jan		No Show	GRASS Fields Maintenance	Cancelled
Relocated off-site due to rain forecast		22-Jan		LART DRILL (City of SJC)	GRASS Fields Maintenance	Cancelled
	27-Jan	Jan 28-29	29-Jan	EQUESTRIAN: Orange County Interscholastic Eq League (IEL 3&4)	GRASS Fields Maintenance	All Sand Rings
February		Feb 4-5		No-Show - RAIN DATE	GRASS Fields Maintenance	
		Feb 11-12		EQUESTRIAN: Orange County Interscholastic Eq League (IEL 5&6)	GRASS Fields Maintenance	

Table A1-2. 2017 Blenheim Facility Management Event Schedule

Month	MOVE IN	EVENT DATES	MOVE OUT	EVENTS:	AREA STATUS:	
				*Equestrian *Tournament Dates (Soccer) *Community Event	GRASS FIELDS	SAND RINGS
		Feb 18-19			GRASS Fields Maintenance/ Rest	
		Feb 25-26			GRASS Fields Maintenance/ Rest	
March	3-Mar	Mar 4-5	5-Mar	EQUESTRIAN: Orange County Interscholastic Eq League (IEL 7&8)	GRASS Fields Maintenance/ Rest	All Sand Rings
		Mar 11-12			GRASS Fields Maintenance/ Rest	
		Mar 18-19			GRASS Fields Maintenance/ Rest	
	21-Mar	Mar 22-26	27-Mar	EQUESTRIAN: Blenheim Spring Classic I	All Grass Rings	All Sand Rings
	21-Mar	Mar 23-26	26-Mar	EQUESTRIAN: Dressage / Festival of the Horse	Shared Event Dates - see above	All Sand Rings
	28-Mar	Mar 29- Apr 2	3-Apr	EQUESTRIAN: Blenheim Spring Classic II	All Grass Rings	All Sand Rings
April		Mar 29- Apr 2	4-Apr	EQUESTRIAN: Blenheim Spring Classic II	All Grass Rings	All Sand Rings
	3-Apr	April 5-9	10-Apr	EQUESTRIAN: Blenheim Spring Classic III	All Grass Rings	All Sand Rings

Table A1-2. 2017 Blenheim Facility Management Event Schedule

2017 Month	MOVE IN	EVENT DATES	MOVE OUT	EVENTS	AREA STATUS	
				*Equestrian *Tournament Dates (Soccer) *Community Event	GRASS FIELDS	SAND RINGS
Easter Sun. 4/16	10-Apr	April 11-15	16-Apr	EQUESTRIAN: Blenheim Spring Classic IV	All Grass Rings	All Sand Rings
		Apr 22-23			GRASS Fields Maintenance	
		Apr 29-30			GRASS Fields Maintenance	
May		May 6-7			GRASS Fields Maintenance	
		May 13-14			GRASS Fields Maintenance	
	19-May	May 20-21	22-May	EQUESTRIAN: Victory Horse Show 1	GRASS Fields Maintenance/ Rest	All Sand Rings
		May 27-28			GRASS Fields Maintenance/ Rest	
June	5/29 (May)	June 1-4	5-Jun	EQUESTRIAN: Blenheim June Jamboree	All Grass Rings	All Sand Rings
	6-Jun	June 7-11	12-Jun	EQUESTRIAN: Blenheim June Classic I	All Grass Rings	All Sand Rings
	13-Jun	June 14-18	29-Jun	EQUESTRIAN: Blenheim June Classic II	All Grass Rings	All Sand Rings
	20-Jun	June 21-25	26-Jun	EQUESTRIAN: Blenheim June Classic III	All Grass Rings	All Sand Rings
Holiday: July 4th	27-Jun	Jun 28- July 2	3-Jul	EQUEST: Blenheim Red White & Blue Classic	All Grass Rings	All Sand Rings
July		6/28 - July 2	3-Jul	EQUESTRIAN: Blenheim Red, White & Blue	All Grass Rings	All Sand Rings
	7-Jul	July 8-9	9-Jul	EQUESTRIAN: Victory Horse Show 2	GRASS Fields Maintenance/Res t	
	14-Jul	July 15-16	17-Jul	SOCCER:		
	21-Jul	July 22-23	24-Jul	SOCCER:		

Table A1-2. 2017 Blenheim Facility Management Event Schedule

2017	MOVE IN	EVENT DATES	MOVE OUT	EVENTS	AREA STATUS	
				*Equestrian) *Tournament Dates (Soccer); *Community Event	GRASS FIELDS	SAND RINGS
		July 29-30			(Event Listed Below)	
		July 28 (pm) (July 29-30)		COMMUNITY EVENT: Two- Stepping Under the Stars	Kids Day Area/Grass Field: (7/28 - Sponsor Appreciation) (7/29 - Community Event Day)	
August	4-Jul	Aug 5-6	6-Aug	EQUESTRIAN: Robin Serfass (Victory 3)	Grass Field: (1) Grass Ring	All Sand Rings
		Aug 12-13			GRASS Fields Rest	
	14-Aug	Aug 16-20	21-Aug	EQUESTRIAN: Blenheim Summer Classic	All Grass Rings	All Sand Rings
	21-Aug	Aug 26- 27	6-Sep	COMMUNITY EVENT: Rancho Mission Viejo Rodeo	All Grass Field	Not Available
Septemb er		Sept 2-3			GRASS Fields Maintenance - following Rodeo Use.	

Table A1-2. 2017 Blenheim Facility Management Event Schedule

2017 Month	MOVE IN	EVENT DATES	MOVE OUT	EVENTS:	AREA STATUS:	
				*Equestrian, *Tournament Dates (Soccer), *Community Event	GRASS FIELDS	SAND RINGS
	8-Sep	Sept 9-10	10-Sep	EQUESTRIAN: Victory Horse Show 4	GRASS Fields Rest	All Sand Rings
	11-Sep	Sept 13-17	18-Sep	EQUESTRIAN: Blenheim Fall Tournament	All Grass Rings	All Sand Rings
	18-Sep	Sept 20-24	25-Sep	EQUESTRIAN: Blenheim Int. Jumping Festival	All Grass Rings	All Sand Rings
		Sept 30 - Oct 1			GRASS Fields Maintenance	
October	6-Oct	Oct 7-8	9-Oct	SOCCER:		
	6-Oct	Oct 7-8	8-Oct	EQUESTRIAN: IRL 1 & 2		All Sand Rings
	13-Oct	Oct 14-15	16-Oct	SOCCER:	Shared Event Dates - see below	All Sand Rings
		Oct 14-15		EQUESTRIAN: Victory Horse Show 5		All Sand Rings
	20-Oct	Oct 21-22	23-Oct	SOCCER:		
		Oct 21-22				
	10/23 & 10/24 Warmup	Oct 25-29	29-Oct	EQUESTRIAN: Orange County Horse Show Association (OCHSA Finals)	Shared Event Dates - see below	All Sand Rings

Table A1-2. 2017 Blenheim Facility Management Event Schedule

2017 Month	MOVE IN	EVENT DATES	MOVE OUT	EVENTS	AREA STATUS	
				*Equestrian/ Tournament Dates (Soccer) *Community Event	GRASS FIELDS	SAND RINGS
	27-Oct	Oct 28-29	30-Oct	SOCCER:		All Sand Rings
Novemb er	3-Nov	Nov 4-5	6-Nov	SOCCER:		
		Nov 4-5		EQUESTRIAN: IEL 3 & 4		All Sand Rings
	10-Nov	Nov 11-12	13-Nov	SOCCER:		
		Nov 11-12				
	17-Nov	Nov 18-19	20-Nov	SOCCER:		
		Nov 18-19				
3-Day Tournam ent	11/22 (23rd: Thanks giving)	Nov 24-26	27-Nov	SOCCER:		
		Nov 25-26				
Decembe r	1-Dec	Dec 2-3	4-Dec	SOCCER:		All Sand Rings
	1-Dec	Dec 2-3	3-Dec	EQUESTRIAN: IEL 5 & 6	Shared Event Dates - see above	All Sand Rings
	8-Dec	Dec 9-10	11-Dec	SOCCER:		
		Dec 16-17			GRASS Fields Maintenance/ Rest	
Event Schedule Subject to Change.						

Attachment 2,
Short-Term Non-Stormwater BMP Implementation Plan
For the
RMV Riding Park Equine Wash Racks



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Visit us on the Web: www.ScottEnvironmental.com

Non-Stormwater Runoff Best Management Plan

for the

Equestrian Facility Wash Racks

at the

Rancho Mission Viejo Riding Park at San Juan Capistrano

The following Best Management Practice (BMP) Plan provides an overview of the wash rack pollution prevention measures that will be implemented at the Rancho Mission Viejo Riding Park to eliminate non-stormwater discharges into San Juan Creek. The wash racks generate dry weather condition related runoff from the bathing of horses by the animal's owners and their staff.

The information presented on the following pages of this document describes the implementation of holding tanks for containment wash racks discharge. The holding tanks are designed to be short-term BMPs during the interim period until a connection to the sanitary sewer system can be completed to each wash rack.

These structural BMPs are implemented to meet with the requirements specified in the municipal separate storm sewer system (MS4) permit Order number (No.) R9-2015-0100 issued by the San Diego Regional Water Quality Control Board and non-stormwater discharge prohibitions specified by *Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region* (Order No. R9-2014-0041).

Scott Environmental Health & Safety Services

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Holding Tanks and the Recycling of Wastewater

The structural BMP plan for each wash rack consists of a 3,000 gallon Noreasco (manufacturer part number 40635) holding tank connected to the drainage inlets. The water will be pumped into each holding tank by a sump pump. A holding tank will be placed at the end of each of the wash racks and can contain 3,000 gallons of water. The necessity of such a large holding tank is due to the random use of wash racks. The most conveniently located wash rack may use up to 1,700 gallons of water while another wash rack may use only 300 gallons of water. The holding tanks need to be able to hold the maximum amount of water used at any one wash rack. In addition, runoff generated on the wash rack concrete surface, as a result of incidental storm event related conditions will be added to the total amount of water in each of the holding tanks.

The holding tank water will be disinfected and used for dust control at the Riding Park following the disinfection process described in the following section.



Disinfection Process

The wash water disinfection process consists of adding a 12% chlorine solution (2 gallons) to each water tank. The chlorine will be stored in a shed because it is a hazardous material. As each tank is filled with wastewater from the wash rack, residual Chlorine will be left in the water. Before the resulting treated

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water is used for dust control on the property, a Chlorine residual test kit will be used to verify the residual chlorine concentration and to determine whether the concentration is present at a level that will not harm surrounding vegetation. This test kit will be used in every 1 of 5 truckloads of water.

Tank Water Level Monitoring Procedures:

The water level will be monitored by checking the tank gauge daily every 1-2 hours during business hours. Each tank is fitted with a float valve switch that turns off the electric sump pump to prevent overtopping. The water will be also get pumped out of each tank when the water level reaches approximately 2,000 gallons.

Tank System Maintenance:

The holding tanks are HDPE (high density polyethylene), and will not corrode. Every six months, or as needed, the tanks will be cleaned and rinsed out per the manufacturers specifications. Solids and/or accumulated bacteria will be removed from the interior & bottom of each tank. The isolation valves will be inspected, adjusted and/or replaced as needed. The pumps will be maintained per the manufacturers specifications.

Schedule of Operation:

The holding tanks are anticipated to be used as a non-stormwater discharge containment system from March 2017 to December 2017, or until the sanitary sewer system construction project is completed.

Scott Environmental Health & Safety Services

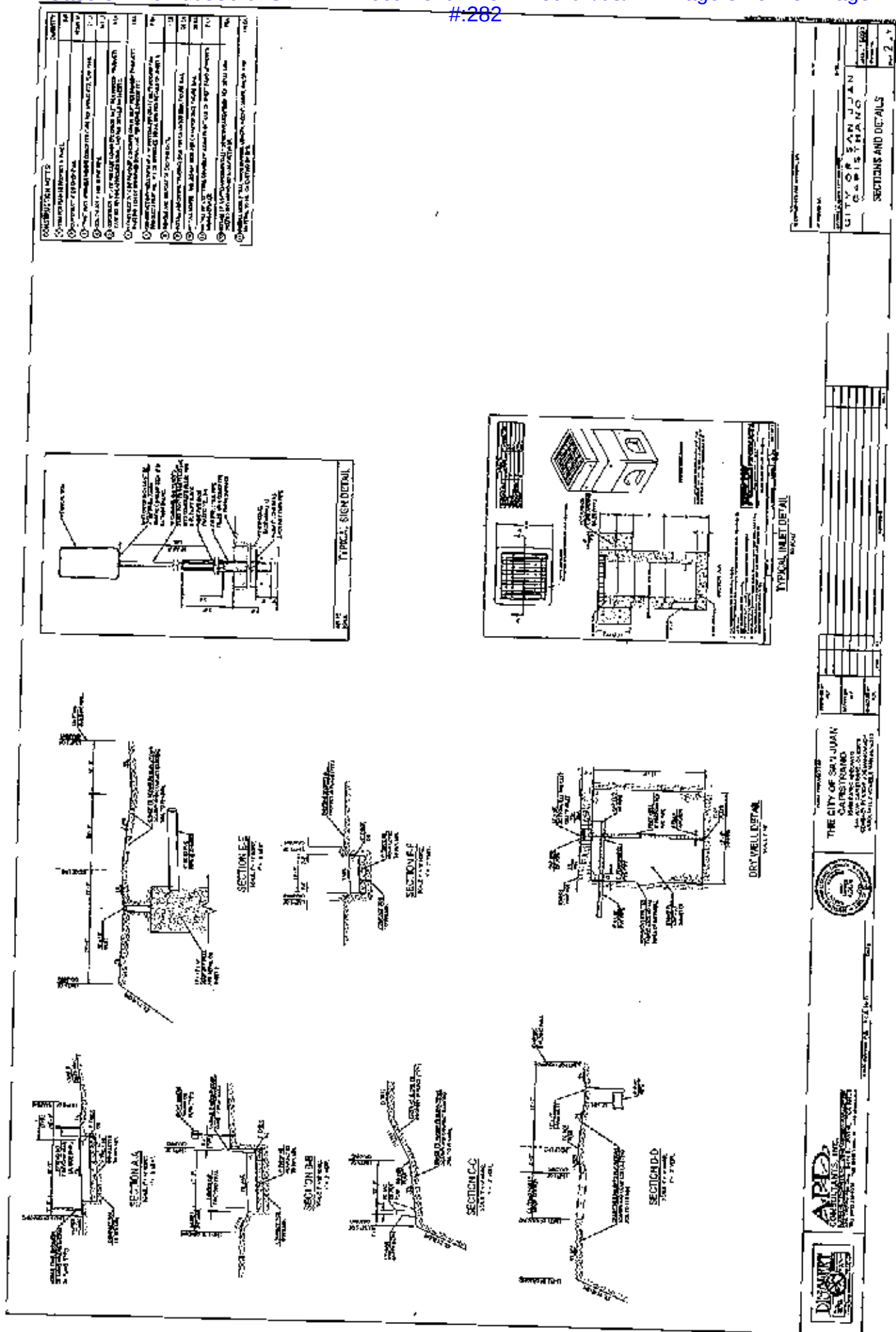
Phone: 949-454-1625 Fax: 949-454-1636 Email: Support@ScottEnvironmental.com

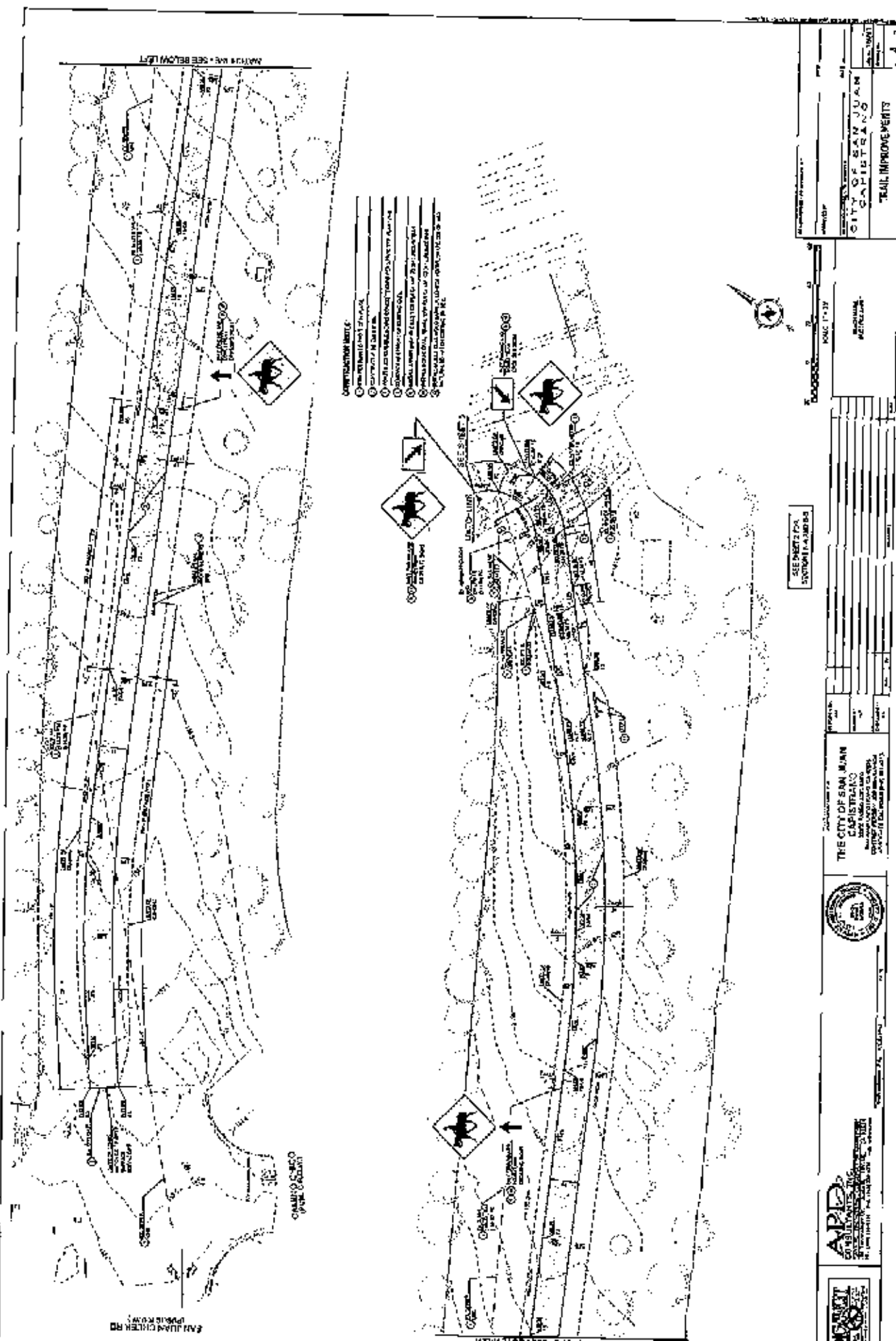
Attachment 3.

Stormwater Capture and Reuse System

For the

San Juan Capistrano East Trail Expansion Project



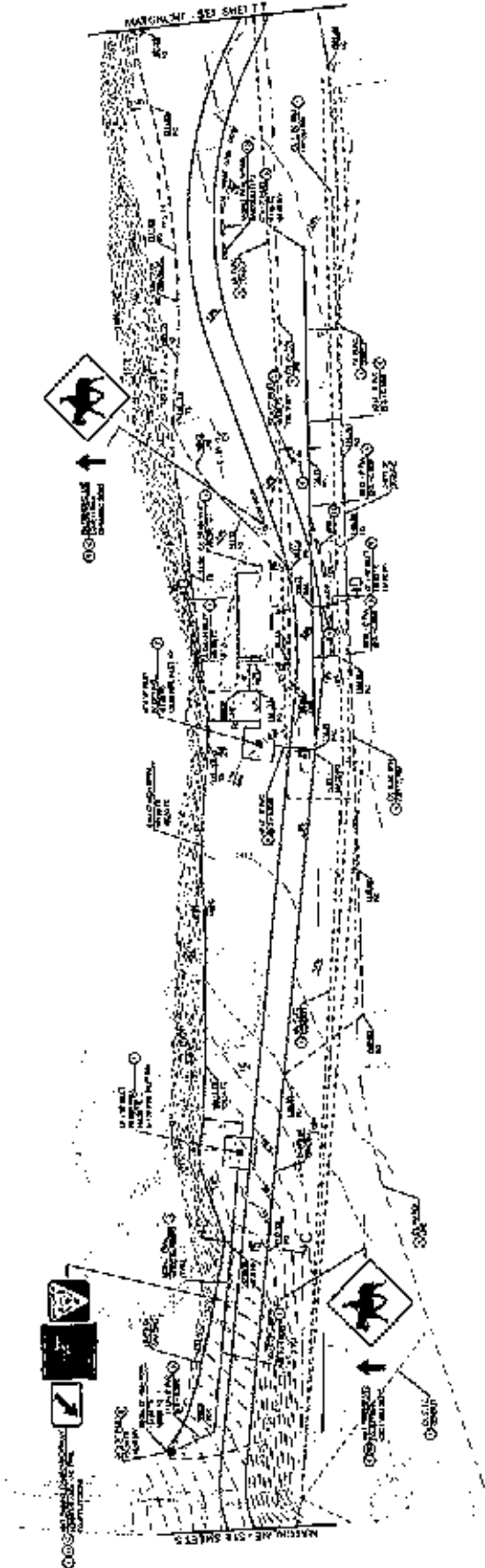






CONSTRUCTION NOTES

1. EXISTING UTILITIES SHOWN AS DASHED LINES.
2. ALL NEW UTILITIES TO BE INSTALLED IN ACCORDANCE WITH THE CITY OF SAN JUAN CAPISTRANO SPECIFICATIONS.
3. ALL NEW UTILITIES TO BE INSTALLED IN ACCORDANCE WITH THE CITY OF SAN JUAN CAPISTRANO SPECIFICATIONS.
4. ALL NEW UTILITIES TO BE INSTALLED IN ACCORDANCE WITH THE CITY OF SAN JUAN CAPISTRANO SPECIFICATIONS.
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8. ALL NEW UTILITIES TO BE INSTALLED IN ACCORDANCE WITH THE CITY OF SAN JUAN CAPISTRANO SPECIFICATIONS.
9. ALL NEW UTILITIES TO BE INSTALLED IN ACCORDANCE WITH THE CITY OF SAN JUAN CAPISTRANO SPECIFICATIONS.
10. ALL NEW UTILITIES TO BE INSTALLED IN ACCORDANCE WITH THE CITY OF SAN JUAN CAPISTRANO SPECIFICATIONS.



SEE SHEET 240K
SECTION 6C AND 7D

SCALE 1" = 10'

THE CITY OF SAN JUAN
CAPISTRANO



ADD
CONSTRUCTION
SPECIALTY CONTRACTORS
10000 JEFFERSON AVE. SUITE 100
SAN JUAN CAPISTRANO, CA 92675



AND LAY
ATTACHED

CITY OF SAN JUAN
CAPISTRANO

TRAIL IMPROVEMENTS
SHEET 6.1

Santa Ana Rain Station SNA		
Date	Day	Rain Inches
7/13/2012	Friday	0.18
10/11/2012	Thursday	0.18
10/12/2012	Friday	0.17
11/17/2012	Saturday	0.24
11/29/2012	Thursday	0.21
11/30/2012	Friday	0.1
12/3/2012	Monday	0.6
12/13/2012	Thursday	0.54
12/24/2012	Monday	0.55
12/26/2012	Wednesday	0.26
12/30/2012	Sunday	0.13
1/24/2013	Thursday	0.56
1/25/2013	Friday	0.3
1/26/2013	Saturday	0.22
2/9/2013	Saturday	0.18
2/20/2013	Wednesday	0.18
3/8/2013	Friday	0.27
3/9/2013	Saturday	0.12
5/6/2013	Monday	0.35

EXHIBIT F

Blenheim 2016 Events and Entries

Event	Horses	Days
International Jumping Festival	568	5
Fall Tournament	745	5
Summer Classic	486	5
Summer Classic	762	5
Blenheim Summer Classic	558	5
Show Park August Festival	360	5
Show Park Race Festival	799	5
Show Park Summer Fest	913	5
Blenheim Red, White & Blue	432	5
Blenheim June Classic III	705	5
Blenheim June Classic II	835	5
Blenheim June Classic I	805	5
Show Park Rach and Coast	787	5
Show Park Spring Festival	179	5
Spring Classic IV	799	5
Spring Classic III	870	5
Spring Classic II	585	5
Spring Classic I	337	5
	Average	Total
	640.2778	90

Blenheim Events with 500+ Entries

Event	Horses	Days
International Jumping Festival	568	5
Fall Tournament	745	5
Summer Classic	762	5
Blenheim Summer Classic	558	5
Show Park Race Festival	799	5
Show Park Summer Fest	913	5
June Classic III	705	5
June Classic II	835	5
June Classic I	805	5
Show Park Ranch and Coast	787	5
Spring Classic IV	799	5
Spring Classic III	870	5
Spring Classic II	585	5
Average:	748.5385	65

Blenheim 2016 Events and Entries

Event	Horses	Days
Blenheim International Jumping Festival	568	5
Blenheim Fall Tournament	745	5
Blenheim Summer Classic	558	5
Blenheim Red, White & Blue	432	5
Blenheim June Classic III	705	5
Blenheim June Classic II	835	5
Blenheim June Classic I	805	5
Blenheim Spring Classic IV	799	5
Blenheim Spring Classic III	870	5
Blenheim Spring Classic II	585	5
Blenheim Spring Classic I	337	5
	Average	Total
	658.0909	55

Blenheim 2017 Events and Entries

	Horses	Days
Blenheim Spring Classic I	378	5
Blenheim Spring Classic II	645	5
Blenheim Spring Classic III	903	5
Blenheim Spring Classic IV	796	5
	Average	Total
	680.5	20

Blenheim Events with 500+ Entries

Event	Horses	Days
International Jumping Festival	568	5
Fall Tournament	745	5
Blenheim Summer Classic	558	5
June Classic III	705	5
June Classic II	835	5
June Classic I	805	5
Spring Classic IV	799	5
Spring Classic III	870	5
Spring Classic II	585	5
Average:	718.8889	45

Blenheim Events with 500+ Entries

	Horses	Days
Blenheim Spring Classic II	645	5
Blenheim Spring Classic III	903	5
Blenheim Spring Classic IV	796	5

2016 Events (Table 3-2 of Exhibit A)

Event Title	Number of Event Days	Horses Present
Orange County Interscholastic Eq League	3	76
Blenheim Spring Classic I	8	290
Blenheim Spring Classic II	8	516
Dressage - Festival of the Horse	3	290
Blenheim Spring Classic III	8	766
Blenheim Spring Classic IV	8	704
Victory Horse Show #1	3	186
Blenheim June Classic I	8	810
Blenheim June Classic II	8	719
Blenheim June Classic III	8	612
Blenheim Red White & Blue Classic	7	364
Victory Horse Show #2	3	129
Robin Serfass / Victory III	3	160
Blenheim Summer Classic	8	491
Rancho Mission Viejo Rodeo	2	500
Victory Horse Show #4	3	105
Blenheim Fall Tournament	8	649
Blenheim Int. Jumping Festival	8	456
Victory Horse Show #5	3	83
Orange County Horse Show Association	8	235
OC Interscholastic Equest. League (1&2)	3	39
OC Interscholastic Equest. League (3&4)	3	85
OC Interscholastic Equest. League (5&6)	3	89
Totals:	127	8354

Events Exceeding 500 Horses	Number of Days	Horses Present
Blenheim Spring Classic II	8	516
Blenheim Spring Classic III	8	766
Blenheim Spring Classic IV	8	704
Blenheim June Classic I	8	810
Blenheim June Classic II	8	719
Blenheim June Classic III	8	612
Rancho Mission Viejo Rodeo	2	500
Blenheim Fall Tournament	8	649
Totals:	58	5276

Events Exceeding 150 Horses	Number of Days	Horses Present
Blenheim Spring Classic I	8	290
Blenheim Spring Classic II	8	516
Dressage - Festival of the Horse	3	290
Blenheim Spring Classic III	8	766
Blenheim Spring Classic IV	8	704
Victory Horse Show #1	3	186
Blenheim June Classic I	8	810
Blenheim June Classic II	8	719
Blenheim June Classic III	8	612
Blenheim Red White & Blue Classic	7	364
Victory Horse Show #2	3	129
Robin Serfass / Victory III	3	160
Blenheim Summer Classic	8	491
Rancho Mission Viejo Rodeo	2	500
Blenheim Fall Tournament	8	649
Blenheim Int. Jumping Festival	8	456
Orange County Horse Show Association	8	235
Totals:	109	7877

EXHIBIT G

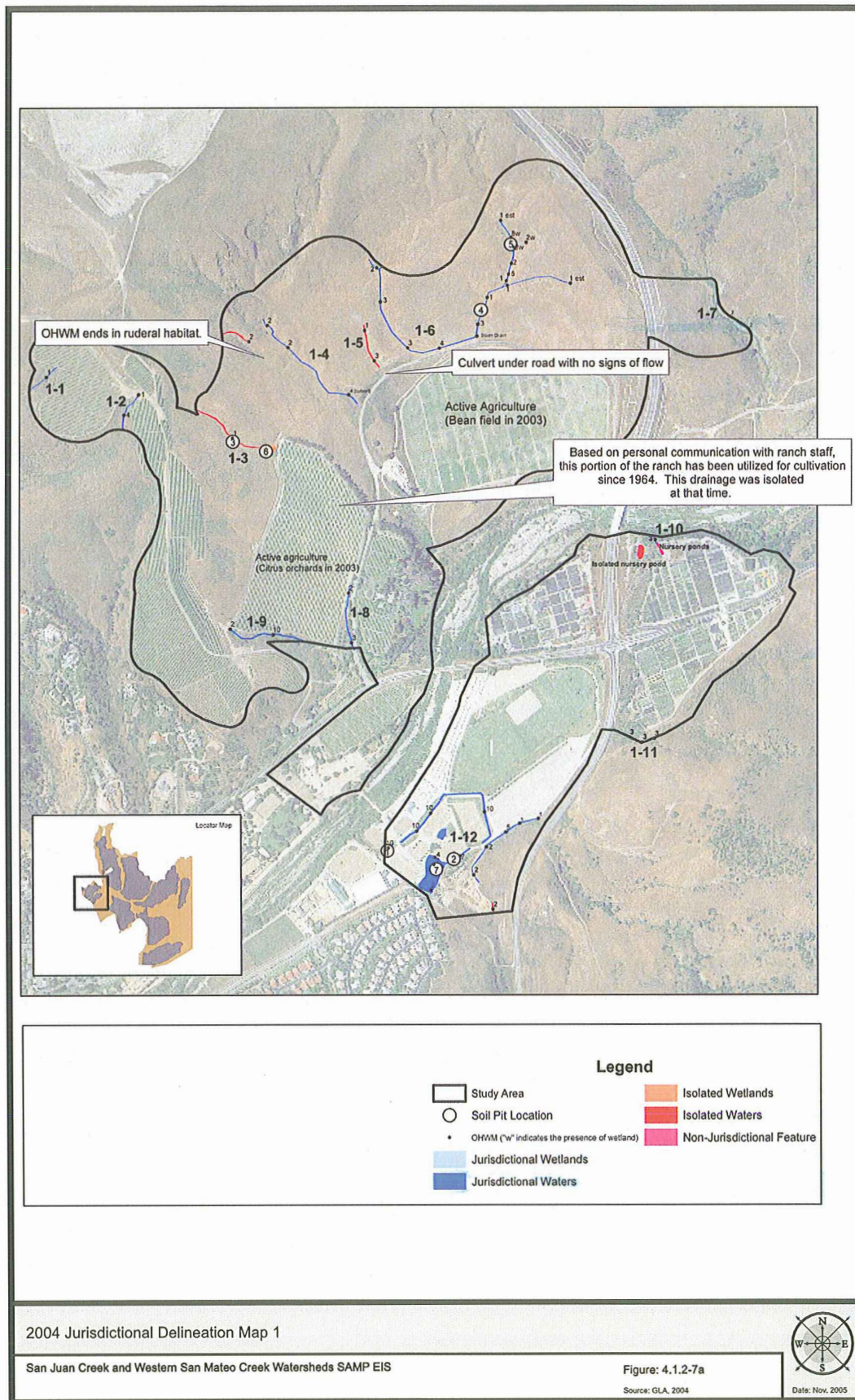


EXHIBIT H

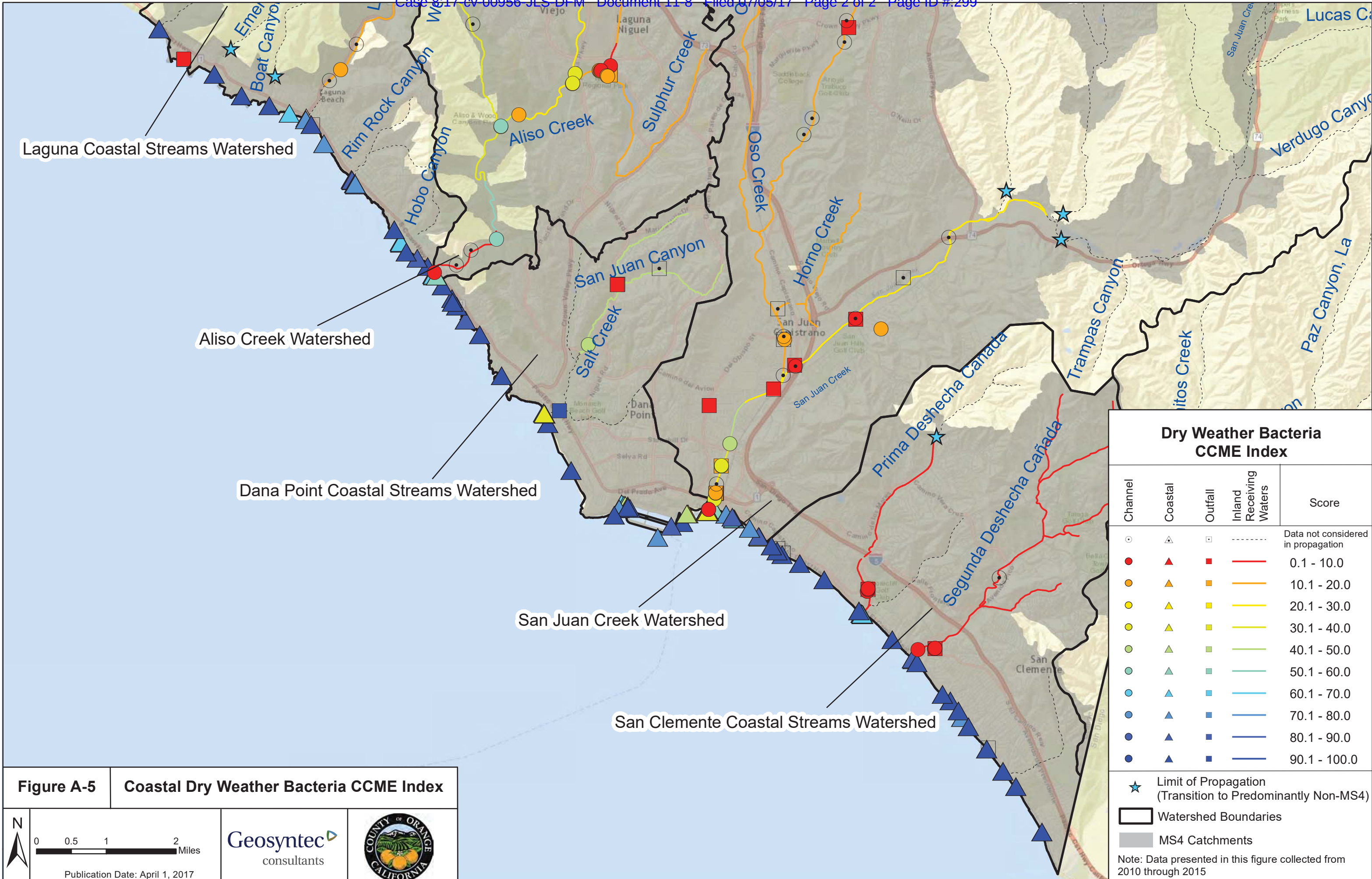


Figure A-5 Coastal Dry Weather Bacteria CCME Index

Geosyntec consultants

Publication Date: April 1, 2017

COUNTY OF ORANGE CALIFORNIA

EXHIBIT I

Santa Ana Rain Station SNA		
Date	Day	Rain Inches
7/13/2012	Friday	0.18
10/11/2012	Thursday	0.18
10/12/2012	Friday	0.17
11/17/2012	Saturday	0.24
11/29/2012	Thursday	0.21
11/30/2012	Friday	0.1
12/3/2012	Monday	0.6
12/13/2012	Thursday	0.54
12/24/2012	Monday	0.55
12/26/2012	Wednesday	0.26
12/30/2012	Sunday	0.13
1/24/2013	Thursday	0.56
1/25/2013	Friday	0.3
1/26/2013	Saturday	0.22
2/9/2013	Saturday	0.18
2/20/2013	Wednesday	0.18
3/8/2013	Friday	0.27
3/9/2013	Saturday	0.12
5/6/2013	Monday	0.35

5/7/2013	Tuesday	0.19
10/10/2013	Thursday	0.24
11/21/2013	Thursday	0.32
11/30/2013	Saturday	0.22
12/8/2013	Sunday	0.27
12/20/2013	Friday	0.16
2/3/2014	Monday	0.12
2/7/2014	Friday	0.11
2/27/2014	Thursday	0.44
2/28/2014	Friday	0.5
3/1/2014	Saturday	1.07
3/2/2014	Sunday	0.33
4/2/2014	Wednesday	0.12
4/26/2014	Saturday	0.22
11/1/2014	Saturday	0.32
12/1/2014	Monday	0.13
12/3/2014	Wednesday	1.05
12/4/2014	Thursday	0.8
12/12/2014	Friday	1.32
12/13/2014	Saturday	0.69
12/17/2014	Wednesday	0.34

12/31/2014	Wednesday	0.12
1/11/2015	Sunday	0.3
1/12/2015	Monday	0.75
1/27/2015	Tuesday	0.12
2/23/2015	Monday	0.52
3/2/2015	Monday	0.19
3/3/2015	Tuesday	0.19
4/8/2015	Wednesday	0.2
5/8/2015	Friday	0.29
5/15/2015	Friday	1.06
5/16/2015	Saturday	0.16
7/19/2015	Sunday	0.19
7/20/2015	Monday	0.25
9/10/2015	Thursday	0.16
9/15/2015	Tuesday	1.27
12/14/2015	Monday	0.2
12/20/2015	Sunday	0.14
12/22/2015	Tuesday	0.27
12/23/2015	Wednesday	0.27
1/6/2016	Wednesday	0.97
1/7/2016	Thursday	1.56

2/1/2016	Monday	0.21
2/18/2016	Thursday	0.43
3/6/2016	Sunday	0.37
3/7/2016	Monday	0.2
3/12/2016	Saturday	0.44
5/7/2016	Saturday	0.62
10/17/2016	Monday	0.17
10/24/2016	Monday	0.32
10/25/2016	Tuesday	0.1
11/21/2016	Monday	0.87
11/27/2016	Sunday	0.5
12/16/2016	Friday	1.56
12/22/2016	Thursday	1.16
12/23/2016	Friday	0.29
12/24/2016	Saturday	1.15
12/31/2016	Saturday	0.86
1/1/2017	Sunday	0.27
1/5/2017	Thursday	0.17
1/6/2017	Friday	0.15
1/9/2017	Monday	0.46
1/11/2017	Wednesday	0.37

1/13/2017	Friday	1.71
1/19/2017	Thursday	0.67
1/20/2017	Friday	1.21
1/22/2017	Sunday	1.77
1/23/2017	Monday	0.14
2/6/2017	Monday	1.09
2/7/2017	Tuesday	0.34
2/11/2017	Saturday	0.14
2/17/2017	Friday	0.53
2/18/2017	Saturday	0.15
2/26/2017	Sunday	0.1
2/27/2017	Monday	0.19
Total Days:		94