



FOLEY & LARDNER LLP

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
June 20, 2008

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VIA E-MAIL AND U.S. MAIL

2008 JUN 23 A 11:36

CLIENT/MATTER NUMBER
037591-0101

Mr. Jeremy Haas
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court #100
San Diego, CA 92123

Re: Complaint No. R9-2008-0056

Dear Mr. Haas:

As we have detailed in our recent correspondence, Promenade at Pacific Beach ("Promenade") believes that the charges and penalties outlined in the Complaint are improper. In brief, we believe that no discharge occurred to a water of the state on the dates in question, based on our understanding of the low flow interceptor system, and the fact that no evidence to the contrary has been produced. Indeed, the City's own documents make clear that all low flow discharges are to enter the sanitary sewer system.

You have also indicated that we should expect a revised Complaint in the near future, updating the mandatory minimum penalties you are seeking. While we have not received a revised Complaint, we do understand that the above-noted matter is scheduled for a hearing on August 13, 2008. Although it is impossible for us to fully respond to the charges in the Complaint if we have not received a final version, it falls on the RWQCB to provide us with all documents, witnesses and other evidence that the RWQCB intends to rely upon to support the allegations in the Complaint that there was a discharge to a water of the state in violation of Promenade's waste discharge requirements. Without such information, Promenade will not be able to adequately respond to the charges or prepare for the upcoming hearing on the matter. Pursuant to Water Code § 13323, please provide the requested information as soon as possible, as well as any revisions to the Complaint.

Very truly yours,

S. Wayne Rosenbaum

cc: Elizabeth Cason

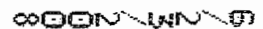
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