

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION

CEASE AND DESIST ORDER NO. R7-2023-0032
FOR

VERDANT ENCELIA, LLC
FAIRFIELD INN & SUITES
WASTEWATER TREATMENT AND DISPOSAL SYSTEMS
TWENTYNINE PALMS, SAN BERNARDINO COUNTY

The California Regional Water Quality Control Board, Colorado River Basin Region, (Regional Water Board) finds that:

1. Verdant Encelia, LLC (Discharger) owns and operates a wastewater treatment and disposal system used to treat domestic wastewater generated at the Fairfield Inn & Suites Twentynine Palms-Joshua Tree National Park (Hotel). The Hotel, as well as the wastewater treatment and disposal system, are located at 6333 Encelia Avenue, Twentynine Palms.
2. The Discharger is regulated by Waste Discharge Requirements (WDRs) Order No. R7-2009-0009, adopted by the Regional Water Board on January 22, 2009¹. The Discharger is also regulated by Revised Monitoring and Reporting Program (Revised MRP) Order No. R7-2009-0009-01, issued by the Executive Officer on December 8, 2022.
3. The WDRs contain effluent limitations, prohibitions, specifications, and provisions necessary to protect the beneficial uses of the underlying groundwater and to prevent nuisance conditions from the discharge of waste.

DESCRIPTION OF FACILITY

4. According to the WDRs, domestic wastewater from the Hotel flows to a wastewater treatment facility (WWTF) which consists of an activated sludge package treatment plant that includes metering, instrumentation, screening, an equalization tank, an extended aeration tank, a secondary clarifier, and an aerobic sludge digester. Effluent from the WWTF is disposed of via nearby seepage pits. Solids and sludge are removed by a licensed septage hauler.

¹ The WDRs identify K Partners Twentynine Palms LP as the owner. In 2015, ownership was transferred to Castleblack Twentynine Palms Owner LLC through Board Order No. R7-2015-0045. At some point, Silverplate KP Prop Co LLC/Highgate Hotels, Inc. bought the property, but Board records were not updated. On November 29, 2022, a "Board Order Change of Ownership Request Form" was submitted by Greens (Miramar), Inc. In January 2023, Greens (Miramar) Inc. transferred ownership of the hotel to Verdant Encelia, LLC. Board Order No. R7-2023-0025 formally changes the Discharger to Verdant Encelia, LLC

5. According to the WDRs, effluent from the laundry facility flows to a two-chamber septic tank, followed by discharge to a seepage pit. The septic tank is pumped as needed. Laundry effluent is separated from the effluent flowing to the main WWTF to avoid potential upsets caused by the bleach used to wash sheets and towels.

RELEVANT PROVISIONS OF WDRS ORDER NO. R7-2009-0009

6. Discharge Prohibition A.5 of WDRs Order No. R7-2009-0009 states “Discharge of wastewater from the WWTFs, other than into the seepage pits ... is prohibited.”
7. Discharge Prohibition A.6 of WDRs Order No. R7-2009-0009 states “WWTFs and seepage pits shall be maintained to prohibit sewage or treated effluent from surfacing or overflowing.”
8. Discharge Specification B.1 of WDRs Order No. R7-2009-0009 states “The 30-day monthly average daily discharge from the main WWTF shall not exceed 6,840 gpd.”
9. Discharge Specification B.2 of WDRs Order No. R7-2009-0009 states “The 30-day monthly average daily discharge from the septic tank serving the laundry facilities shall not exceed 1,500 gpd.”
10. Discharge Specification B.3 of WDRs Order No. R7-2009-0009 states “Effluent from both wastewater treatment systems shall not have a pH below 6.0 or above 9.0.”
11. Discharge Specification B.5 of WDRs Order No. R7-2009-0009 states “Public contact with wastewater and the subsurface disposal areas shall be precluded or controlled through fences, signs, or other acceptable alternatives.”
12. Discharge Specification B.9 of WDRs Order No. R7-2009-0009 states “Effluent from the main WWTF shall not exceed the following effluent limits:

Constituent	Units	Monthly Average	Weekly Average	Daily Maximum
BOD ₅ ¹	mg/L	30	45	65
Total Suspended Solids	mg/L	30	45	65
Nitrogen (as Total Nitrogen)	mg/L	10	15	20
Total Dissolved Solids (TDS)	mg/L	470	--	--
¹ 5-day biochemical oxygen demand at 20°C				

HISTORY OF VIOLATIONS

13. On November 26, 2012, the Discharger was issued a Notice of Noncompliance for violation of the total nitrogen effluent limit.
14. In September 2021, the operator notified the Discharger (but not Regional Water Board staff) that the WWTF seepage pits were failing and recommended an investigation. In addition, the Discharger was advised that the WWTF was not designed correctly and was unable to treat effluent to meet the WDR's effluent limits.
15. The Discharger's November 2021 through April 2022 self-monitoring reports state that (a) due to failure, the laundry seepage pits were replaced "five years ago" and (b) the WWTF seepage pits are failing and therefore the wastewater is being pumped weekly and hauled off-site.
16. On June 17, 2022, the Discharger was issued a Notice of Violation for (a) failure to preclude public access to the WWTF, (b) failure to properly maintain and operate the WWTF at all times, and (b) violations of the BOD, TSS, total nitrogen, and TDS effluent limits.
17. The WDRs state that the Discharger will employ a Grade 1 "State Certified Wastewater Treatment Plant operator licensed to operate and maintain the WWTF and disposal system." In addition, as of April 2013, the State Water Resources Control Board (State Water Board) has required that all privately owned WWTFs be staffed by certified operators. However, in early June 2022, State Water Board staff learned that the individual that had been operating the Hotel's WWTF for many years was not a licensed operator. A licensed operator was subsequently hired as of June 22, 2022.
18. On March 25, 2023, State Water Board staff notified the Discharger that its February 2023 monitoring report did not comply with the Revised MRP. In particular, multiple constituents were not monitored, flows were not measured, and the monitoring frequency for those constituents which exceeded effluent limits had not been increased from monthly to two times per month as per the revised MRP.
19. It appears that the Discharger does not have flow meters to measure the volume of waste discharging from both the WWTF and from the laundry septic tank. For the WWTF, the monthly Self-Monitoring Reports either estimate flows based on the number of beds occupied during the month, or do not report flows. No flows are reported for the laundry septic tank.
20. Attachment A to this Cease and Desist Order lists the Discharger's effluent limit violations from January 2021 through May 2023. Multiple effluent limit violations have occurred every month during this period.

RECENT ACTIONS BY THE DISCHARGER

21. In late June 2022, the Discharger's new (licensed) operator evaluated the condition of the WWTF and informed State Water Board staff that the seepage pits had failed, that the WWTF did not appear to provide any treatment at all, and that the previous operator's practice was to haul off effluent and solids every 11-12 days. The operator provided the Discharger with quotes for replacing the WWTF, and arranged for an evaluation of the seepage pits and septic storage tank.
22. The June 17, 2022 Notice of Violation required that the Discharger submit three reports. The first was due by July 15, 2022 and was to document (a) that a fence had been placed around the WWTF, (b) that wastewater was being hauled off, and (c) that a licensed Chief Plant Operator had been hired. After a reminder that the report was overdue, the Discharger confirmed on August 2, 2022 that a licensed Chief Plant Operator had been hired. The Discharger, via the new Chief Plant Operator, also requested an extension to complete the work required by the NOV, stating that the previous owners had not informed the new owners of the NOV. State Water Board staff agreed to extend the due dates by 45 days.
23. On August 30, 2022, the Discharger emailed photographs showing that a fence, sufficient to preclude public access, had been installed around the WWTF. The Discharger is no longer in violation of Discharge Specification B.5.
24. The June 17, 2022 Notice of Violation required that a second report be submitted. It was to be prepared by a California Registered Engineer and was to contain an evaluation of the disposal ability of seepage pits and whether replacement seepage pits are required. The due date for this report was extended to October 1, 2022. The report was received on March 28, 2023.
25. The June 17, 2022 Notice of Violation required that a third report be submitted. It was to be prepared by a California Registered Engineer and was to describe the modifications needed to the WWTF and proposed dates by which the work would be completed. The due date for this report was extended to December 1, 2022. After repeated requests by State Water Board staff, the report was received on May 1, 2023.
26. On February 8, 2023, the Discharger's California Registered Engineer submitted an email containing ten pages of engineering plan sheets for an upgraded WWTF at the Hotel. Although one of the plan sheets has a table of "Reason for Retrofits" and nine problems/solutions, the document lacks any accompanying description of how the proposed upgrade will comply with the WDR's effluent limits and other specifications.
27. On March 14, 2023, the Engineer sent an email stating that "we are preparing the submittal package that will go to the City of 29 Palms for approval of the work and

building permits. The package will include construction plans and ... the report will include seepage pit percolation information and design.”

28. On March 28, 2023, the Engineer sent an email (a) containing a link to the preliminary design plans, (b) stating that documents had been submitted to the City of Twentynine Palms, and (c) stating that the City needed the Water Board to concur with the plans before a building permit could be issued. Water Board staff responded on April 3, 2023 that the preliminary plans were insufficient, and that the Discharger must submit the information required by the June 17, 2022 Notice of Violation. In addition, State Water Board staff's brief review found that the percolation pits were only designed to dispose of 4,860 gallons per day (gpd) of wastewater, which does not meet the WDR's flow limit of 6,840 gpd.
29. On April 12, 2023, the Engineer sent the “Engineer’s Report” which consisted of five files. The Engineer noted that modifications were only proposed to the WWTF, and not to the laundry waste system. Water Board staff's review found that the number of seepage pits had been increased to allow for the WDR-permitted flow of 6,840 gpd, but that the WWTF's upgrades were designed for a flow of only 4,800 gpd. In emails dated April 12, 2023, April 14, 2023, and in a subsequent telephone call, Water Board staff reiterated that that the WWTF upgrades must meet the WDR-permitted flow of 6,840 gpd.
30. On May 1, 2023, the Discharger's Engineer submitted a revised “Engineer’s Report”. The report shows that the WWTF upgrade is designed to meet the WDR's flow limit of 6,840 gpd and all WDR effluent limits. The California Registered Engineer certified that if the upgrade is built as proposed and the system is properly operated, then “the system will meet the requirements of the site waste discharge requirements.” On May 2, 2023, State Water Board staff approved the revised Engineer's Report based on the Engineer's certification.
31. Monthly monitoring reports include receipts documenting that wastewater is being hauled away from the WWTF. For example, in October 2022, receipts show that 21,000 gallons of wastewater was removed at a cost of \$7,980. Both the frequency of hauling and volume of wastewater hauled has increased since then; for example, the February 2023 receipts show that 46,500 gallons of wastewater were removed at a cost of \$15,112.
32. On April 27, 2023, the WWTF operator notified the Water Board that the seepage pits were overflowing, with an estimated volume of 75 gallons. The operator stated that the frequency of wastewater removal/hauling would be increased to five days per week, from Monday through Friday.

33. On July 27, 2023, the Discharger submitted invoices and other documents regarding the progress toward upgrading the WWTF. Contractors have been hired and prep work will begin in late August. New seepage pits will be drilled in early September. Delivery of the two 15,000 gallon concrete septic tanks is scheduled for September 28, 2023.
34. In summary, the Discharger continues to operate a failing WWTF that cannot meet the WDR's effluent limits or specifications. In particular, the Discharger is in violation of:
- Discharge Prohibitions A.5 and A.6 for the failed seepage pits and surfacing wastewater;
 - Revised Monitoring and Reporting Program No. R7-2009-0009-01 for the failure to measure and report the flows from the WWTF and the laundry septic tank;
 - Discharge Specifications B.3 and B.9 for the failure to adequately treat wastewater to meet the effluent limits, as documented in Attachment A.

REGULATORY CONSIDERATIONS

35. According to the WDRs, discharge from the WWTF is to groundwater within the Dale hydrologic unit of the Lucerne Valley Planning Area.
36. The beneficial uses of the groundwater are defined in the [Water Quality Control Plan for the Colorado River Basin Region](#). The beneficial uses of the Dale hydrologic unit are municipal and domestic water supply, agricultural supply, and industrial supply. The failure to comply fully with the effluent limits of WDRs Order No. R7-2009-0009 threatens these beneficial uses.
37. Water Code section 13301 states, in part: "When a regional board finds that a discharge of waste is taking place, or threatening to take place, in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action."
38. The Regional Water Board finds that a discharge of waste is taking place in violation of WDRs Order No. R7-2009-0009, as described in the Findings of this Order. This Order requires the Discharger to take appropriate remedial action and to comply in accordance with the time schedule set forth below.
39. Water Code section 13267, subdivision (b) states, in part: "In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or

who proposes to discharge waste within its region [...] that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”

40. The Discharger owns and operates the Fairfield Inn & Suites wastewater treatment and disposal system which is subject to WDRs Order No. R7-2009-0009 and this Cease and Desist Order. The technical and monitoring reports required by this Order are necessary to determine compliance with the requirements in WDRs Order No. R7-2009-0009 and with this Order to ensure prevention of degradation to groundwater. The cost to produce the reports required by this Order is estimated to be \$1,800 based on statewide rates for a project engineer. Therefore, the burden of production of these reports is reasonable.
41. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).
42. After due notice to the Discharger, and all other affected persons, the Colorado River Basin Water Board conducted a public hearing at which evidence was received to consider this Cease and Desist Order under Water Code section 13301 to establish a time schedule to achieve compliance with waste discharge requirements.

IT IS HEREBY ORDERED that, pursuant to sections 13301 and 13267 of the Water Code, the Discharger shall implement the following measures in order to return to compliance with its WDRs:

1. By **November 15, 2023**, submit a technical report, prepared by a California Registered Engineer or Certified Engineering Geologist, documenting (a) that the upgrades have been completed to the WWTF and seepage pits as described in the May 1, 2023 Engineer’s Report, and (b) that flow meters have been installed and calibrated to measure the discharge from both the Hotel WWTF and laundry septic tank.
2. By **March 15, 2024**, submit a technical report, prepared by a California Registered Engineer or Certified Engineering Geologist, containing an evaluation of the past six months of monitoring data and whether the discharge from both the upgraded WWTF and the laundry septic tank will consistently meet the WDR’s effluent and flow limits, and whether both the WWTF and laundry seepage pits are sufficient for continued discharges. If not, the report shall include a proposal for additional facility modifications that will be implemented no later than **June 1, 2024**.

3. By **July 1, 2024**, submit a technical report, prepared by a California Registered Engineer or Certified Engineering Geologist, documenting that any additional facility modifications have been completed, and certification that the discharge from the WWTF and laundry septic tank can fully comply with all of the WDR's flow limits and effluent limits.
4. No later than **July 1, 2024**, or sooner if feasible, the Discharger shall comply with all aspects of its WDRs.
5. The Regional Water Board has transitioned to a paperless office. Therefore, all technical reports required by this Order must be converted to a searchable pdf file and submitted via email to RB7-wdrs_paperless@waterboards.ca.gov.
6. In accordance with California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain workplans for investigations and studies, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall bear the professional's signature and stamp.
7. Any person signing a document submitted under this Order shall make the following 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 knowledge and 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."

The Executive Officer or her delegee may extend the deadlines contained in this Order if the Discharger demonstrates that circumstances beyond the Discharger's control have created delays, provided that the Discharger continues to undertake all appropriate measures to meet the deadlines. The Discharger shall make any deadline extension request in writing at least 30 days prior to the deadline. The Discharger must obtain written approval from the Executive Officer or her delegee for any departure from the time schedule shown above. Failure to obtain written approval for any departures may result in further enforcement action.

If, in the opinion of the Executive Officer or her delegee, the Discharger fails to comply with the provisions of this Order, the Executive Officer or her delegee may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil

liability, or may take other enforcement actions. Failure to comply with this Order or the WDRs may result in the assessment of Administrative Civil Liability of up to \$5,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268 and 13350 . The Regional Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of [the law and regulations applicable to filing petitions](#) may be found on the Internet at: (http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

I, PAULA RASMUSSEN, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order issued by the California Regional Water Quality Control Board, Colorado River Basin, on August 10, 2023.

Original Signed by
PAULA RASMUSSEN, Executive Officer

Attachment A: Summary of Effluent Limit Violations

Attachment A to CDO R7-2023-0032

Fairfield Inn & Suites, Twentynine Palms, San Bernardino County

Monitoring results are collated from the Discharger’s self-monitoring reports from January 2021 through May 2023. Constituents listed are those required to be monitored per the Monitoring and Reporting Program. Effluent limits are in () and are from the WDRs. Results in bold and yellow highlighting exceed the WDR effluent limits. “NA” means not analyzed. “NM” means that flow was not measured. “est” means estimated flow based on number of occupied beds during the month.

Month, Year	Effluent Limits and Results										
	Main WWTP						Laundry				Influent
	BOD, mg/L (30 monthly/ 45 weekly/ 65 max daily)	TSS, mg/L (30 monthly/ 45 weekly/ 65 max daily)	Total N, mg/L (10 monthly/ 15 weekly/ 20 daily)	pH- (6-9)	TDS, mg/L (470 monthly)	Flow (8,460 gpd)	pH (6-9)	Flow (1,500 gpd)	TDS, mg/L (no effluent limit)	MBAS, mg/L	TDS, mg/l
May 2023	55/62	9.3/ 58	40/47	7.6	450/430	1,800 est	NA	NM	540	1.2	250
Apr 2023	58/59	36/37	35/84	7.1	560/470	2,810 est	NA	NN	310	4.0	320
Mar 2023	25/ 58	5.8/ 36	31/35	7.2	370/ 560	4,392 est	NA	NM	370	0.59	310
Feb 2023	0.68	55	19	8.15	390	NA	NA	NN	390	1.4	300
Jan 2023	18	17	69	7.35	310	NA	NA	NM	320	3.9	160
Dec 2022	630	350	15	7.4	350	<6,840	NA	NM	530	190	380
Nov 2022	15	13	47	7.4	470	<6,840	NA	NM	700	1.2	430
Oct 2022	47	9.2	42	7.4	460	4,146 est	NA	NM	610	1.3	420
Sep 2022	24	13	36	7.8	480	2,736 est	8.0	NM	570	1.0	390

Month, Year	Effluent Limits and Results										
	Main WWTP						Laundry				Influent
	BOD, mg/L (30 monthly/ 45 weekly/ 65 max daily)	TSS, mg/L (30 monthly/ 45 weekly/ 65 max daily)	Total N, mg/L (10 monthly/ 15 weekly/ 20 daily)	pH- (6- 9)	TDS, mg/L (470 monthly)	Flow (8,460 gpd)	pH (6-9)	Flow (1,500 gpd)	TDS, mg/L (no effluent limit)	MBAS, mg/L	TDS, mg/l
Aug 2022	190	16	68	7.5	390	1,920 est	NA	NM	1,000	5.5	NR
July 2022	35	41	44	7.4	500	2,480 est	7.14	NM	880	NA	360
Jun 2022	Monitoring did not take place										
May 2022	43	27	29	7.7	470	1,850 est	NA	NM	300	6.5	280
Apr 2022	44	57	54	7.6	410	NA	NA	NM	370	6.4	150
Mar 2022	77	34	35	7.4	470	1,890 est	NA	NM	630	6.3	350
Feb 2022	32	13	24	7.4	340	1,900 est	NA	NM	600	5.2	180
Jan 2022	41	19	36	7.7	450	1,890 est	NA	NM	710	1.3	360
Dec 2021	Report is missing										
Nov 2021	34	23	35	7.5	370	1,890 est	NA	NM	630	3.0	390
Oct 2021	130	12	41	7.8	470	1,750 est	NA	NM	490	0.32	450
Sep 2021	6.4	15	33	6.5	NA	1,900 est	NA	NM	NA	2.8	NA
Aug 2021	27	5.2	16	7.7	260	1,750 est	NA	NM	300	2.5	200
July 2021	35	93	19	7.1	350	1,750 est	NA	NM	330	4.5	380

Month, Year	Effluent Limits and Results										
	Main WWTP						Laundry				Influent
	BOD, mg/L (30 monthly/ 45 weekly/ 65 max daily)	TSS, mg/L (30 monthly/ 45 weekly/ 65 max daily)	Total N, mg/L (10 monthly/ 15 weekly/ 20 daily)	pH- (6- 9)	TDS, mg/L (470 monthly)	Flow (8,460 gpd)	pH (6-9)	Flow (1,500 gpd)	TDS, mg/L (no effluent limit)	MBAS, mg/L	TDS, mg/l
Jun 2021	76	23	30	7.4	340	1,750 est	NA	NM	390	1.1	200
May 2021	60	84	32	7.0	340	1,750 est	NA	NM	430	4.3	180
Apr 2021	59	20	40	7.5	410	1,750 est	NA	NM	340	1.7	310
Mar 2021	Report is missing										
Feb 2021	39	40	24	7.4	300	1,500 est	NA	NM	380	1.4	280
Jan 2021	12	32	39	7.7	400	1,100 est	NA	NM	460	5.7	180