

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

November 10, 2015

Mr. Kevin Hampton
AERC Desmond's Tower LLC
2 Venture
Irvine, CA 92618

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Claim No. 7014 2870 0001 4538 2051

AERC Desmond's Tower LLC
c/o Corporation Service Company
1 AEC Parkway
Richmond Heights, OH 44143

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Claim No. 7014 2870 0001 4538 2068

SETTLEMENT OFFER NO. R4-2015-0162: OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM RELATING TO VIOLATIONS OF THE NPDES PERMIT FOR AERC DESMOND'S TOWER, LLC, DESMOND WILSHIRE PROJECT, 5520 W. WILSHIRE BOULEVARD, LOS ANGELES, CA (ORDER NO. R4-2013-0095, NPDES PERMIT NO. CAG994004, CI NO. 9957)

Dear Mr. Hampton:

Subsequent to issuance of Settlement Offer No. R4-2015-0162, the Los Angeles Regional Water Quality Control Board (Regional Board) staff evaluated the 2nd Quarter 2015 self-monitoring report submitted on October 22, 2015 and discovered an additional late reporting violation for that quarter. The updated list of violations and penalties are listed in attached Revised Exhibit "1" – Notice of Violation.

The Regional Board has established new deadlines. If you intend to participate in the Expedited Payment Program, you must sign and return the Revised Acceptance of Conditional Resolution and Waiver of Right to Hearing form by December 10, 2015. By signing the Revised Acceptance and Waiver, AERC Desmond's Tower LLC agrees to pay the penalty of \$30,000 as indicated on Revised Exhibit "1"-Notice of Violation and waives the right to a hearing.

If you do not elect to sign the Revised Acceptance and Waiver, you will be contacted regarding formal enforcement action that will be initiated with regard to the contested violations.

CHARLES STRINGER, CHAIR | SAMUEL UNGER, EXECUTIVE OFFICER

320 West 4th St., Suite 200, Los Angeles, CA 90013 | www.waterboards.ca.gov/losangeles

Mr. Kevin Hampton
AERC Desmond's Tower LLC

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November 10, 2015

Should you have any questions regarding this matter, please contact Enforcement Unit staff Lala Kabadaian at (213) 620-6370/ lala.kabadaian@waterboards.ca.gov or Mr. Russ Colby at (213) 620-6373/ russ.colby@waterboards.ca.gov.

Sincerely,



Paula Rasmussen
Assistant Executive Officer

Enclosures:

Revised Exhibit "1" - Notice of Violation
Revised Acceptance of Conditional Resolution and Waiver of Right to Hearing;
(proposed) Order

cc: (via email)
Mayumi Okamoto, Office of Enforcement, State Water Resources Control Board
Grant Williams, AERC Desmond's Tower LLC

REVISED EXHIBIT "1" - NOTICE OF VIOLATION
Effluent Limit Violations

Date	Monitoring Period	Violation Type	Parameter	Reported Value	Permit Limit	Units	Pollutant Category	% Exceeded	Serious/Chronic	Water Code Section 13385	Penalty
12/17/14	4th Quarter 2014	Daily Maximum	Copper	20	18	µg/L	2	11%	Chronic	(i)1	\$0
12/17/14	4th Quarter 2014	Monthly Average	Copper	20	9	µg/L	2	122%	Serious	(h)1	\$3,000
										Total	\$3,000

REVISED EXHIBIT "1" - NOTICE OF VIOLATION
Late Reporting Violations

Reporting Period	Violation Type	Due Date	Received Date	Days Late	# of Complete 30-Day Periods	Serious/ Chronic	Water Code Section 13385	Amount Per 30-Day Period	Penalty
4th Quarter 2014	Late Report	02/14/2015	07/20/2015	156	5	Serious	(h)(1)	\$3,000	\$15,000
1st Quarter 2015	Late Report	05/15/2015	07/20/2015	66	2	Serious	(h)(1)	\$3,000	\$6,000
2nd Quarter 2015	Late Report	08/14/2015	10/22/2015	69	2	Serious	(h)(1)	\$3,000	\$6,000
							Total		\$27,000
							Settlement Total		\$30,000

Settlement Offer No. R4-2015-0162
CI No. 9957, NPDES Permit No. CAG994004

**REVISED ACCEPTANCE OF CONDITIONAL RESOLUTION
AND WAIVER OF RIGHT TO HEARING; (proposed) ORDER**

AERC Desmond's Tower LLC
Settlement Offer No. R4-2015-0162
NPDES Permit No. CAG994004

By signing below and returning this Revised Acceptance of Conditional Resolution and Waiver of Right to Hearing (Revised Acceptance and Waiver) to the Los Angeles Regional Water Quality Control Board (Regional Board), AERC Desmond's Tower LLC (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Regional Board to dispute the allegations of violations described in the Revised Notice of Violation (Revised NOV), which is attached hereto as Exhibit "1" and incorporated herein by reference.

The Permittee agrees that the Revised NOV shall serve as a complaint pursuant to Article 2.5 of the California Water Code and that no separate complaint is required for the Regional Board to assert jurisdiction over the alleged violations through its Chief Prosecutor. The Permittee agrees to pay the penalties required by California Water Code section 13385, in the sum of \$30,000 (Expedited Payment Amount), which shall be deemed payment in full of any civil liability pursuant to Water Code sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the NOV. The Permittee understands that this Revised Acceptance and Waiver waives the Permittee's right to contest the allegations in the Revised NOV and the amount of civil liability for such violations.

The Permittee understands that this Revised Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the Revised NOV.

Upon execution by the Permittee, the completed Revised Acceptance and Waiver shall be returned to:

Lala Kabadaian, Enforcement Unit
Expedited Payment Program
Regional Water Quality Control Board, Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, California 90013

The Permittee understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Regional Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action addressing NPDES permit violations. Accordingly, this Revised Acceptance and Waiver, prior to execution by the Regional Board Executive Officer, will be published as required by law for public comment.

If no comments are received within the notice period that causes the Regional Board Executive Officer to question the Expedited Payment Amount, the Regional Board Executive Officer will execute the Revised Acceptance and Waiver.

Settlement Offer No. R4-2015-0162
CI No. 9957, NPDES Permit No. CAG994004

The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional Board to resolve the violations set forth in the Revised NOV may be withdrawn. In that circumstance, the Permittee will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

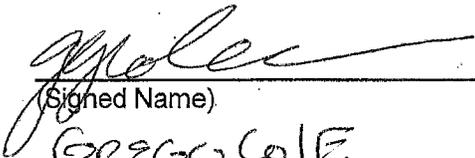
The Permittee further understands that once the Revised Acceptance and Waiver is executed by the Regional Board Executive Officer, the full payment required by the deadline set forth below is a condition of this Revised Acceptance and Waiver. In accordance with California Water Code section 13385(n)(1) and California Water Code section 13385.1(c)(1), funds collected for violations of effluent limitations and reporting requirements pursuant to section 13385 and 13385.1 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the \$30,000 liability shall be paid by a cashiers or certified check made out to the "State Water Pollution Cleanup and Abatement Account". The payment must be submitted to the State Water Resources Control Board no later than thirty (30) calendar days after the date the Revised Acceptance and Waiver is executed by the Regional Board Executive Officer.

Please mail the check to:

State Water Resources Control Board
ATTN: ACL PAYMENT
Division of Administrative Services, Accounting Branch
1001 I Street, 18th Floor, [95814]
P.O. Box 1888
Sacramento, CA 95812-1888

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Revised Acceptance and Waiver.

AERC Desmond's Tower LLC

By: 
(Signed Name)
GREGG COLE
(Printed or typed name)

12.8.15
(Date)
Director of Construction
(Title)

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: _____

By: _____
Samuel Unger, P.E.
Executive Officer