



California Regional Water Quality Control Board

Los Angeles Region



Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Linda S. Adams
Agency Secretary

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Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
LOS ANGELES REGION

RECEIVED
MAY 22 PM 3 18

May 15, 2009

Carl Marer
Property Manager
Park Encino, LLC
22287 Mulholland Hwy, #242
Calabasas, CA 91302

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
CLAIM NO. 7008 1830 0004 3359-185

**RESPONSE TO REQUEST FOR ALLEGED VIOLATION REVIEW – PARK ENCINO, LLC,
RENO APARTMENTS, 350 SOUTH RENO STREET, LOS ANGELES, CA.
(Order No. R4-2003-0111, NPDES Permit No. CAG994004, CI No. 6900)**

Dear Mr. Marer:

Thank you for the letter dated January 13, 2009 from Preston W. Brooks of Cox, Castle & Nicholson, LLP, responding to Offer to Participate in Expedited Payment Program No. R4-2008-0121-M, which assessed mandatory minimum penalties (MMPs) for violations of effluent limitations and late reporting violation. This letter addresses your comments in this regard.

First, in response to the effluent limit violations for March 9, 2006 and September 20, 2006, settleable solids were reported as being present in the effluent on March 9, 2006 and September 20, 2006 at a concentration of 0.5 ml/L, which is above the daily maximum effluent limit of 0.3 ml/L and monthly average effluent limit of 0.1 ml/L contained in Board Order No. R4-2003-0111. The Permittee asserted that the four (4) exceedances for settleable solids should be removed since “Kim & Casey never provided the First Letter or the Second Letter to Park Encino.” In its January 13, 2009 correspondence, the Permittee states that “[a]ccording to Kim & Casey, they never received these letters because they were sent during a period of time when Kim & Casey was moving its offices and there was a transition between property management companies.” However:

- On November 3, 2006 the Regional Board received a letter from Kim & Casey, LLC representative, Terrence J. Casey, in response to the October 17, 2006 NOV stating that he contacted Chemtek Environmental and the missing 1st Quarter 2006 self-monitoring report would be submitted to the Regional Board by Chemtek Environmental;
- On April 11, 2007, the Regional Board received a letter from Mr. Terrence J. Casey stating that he had received the NOV dated April 6, 2007 and informing the Regional Board that Kim & Casey, LLC was no longer managing the Reno Apartments since their “contract was terminated as of December 2006;”
- On April 12, 2007, Carl Marer from Mashcule Property Management contacted Regional Board staff in regards to the April 6, 2007 Notice of Violation and stated that Mashcule Property Management was hired in December 2006 to manage the property, and requested a copy of the NPDES Permit; and

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

- On April 12, 2007, a copy of the NPDES permit was faxed and mailed to Mr. Marer.

Furthermore, the Permittee states that its representative, Kim & Casey, LLC, "never provided" the Notice of Violations (NOVs) dated October 17, 2006 and April 6, 2007, thus the Permittee should not be held responsible for the alleged violations. However, Kim and Casey, LLC was an agent of the Permittee and the Permittee is ultimately responsible for complying with the requirements prescribed in Order No. R4-2003-0111. Therefore, Regional Board staff cannot agree with the Permittee's request to remove the four (4) settleable solids effluent limit violations for March 9, 2006 and September 20, 2006.

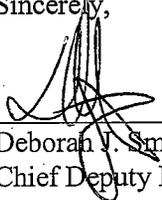
Second, the Regional Board, in consultation with the Board staff, has reviewed the alleged late reporting violations and has determined that Permittee's 1st Quarter 2007 self-monitoring report was received by the Regional Board on August 10, 2007, a total of 87 days late. Monitoring and Reporting Program CI No. 6900 states that the 1st Quarter 2007 self-monitoring report under this Program is due by May 15, 2007. There is no grace period for submittal of monitoring reports. Based on the above, the 1st Quarter 2007 self-monitoring report is still considered 87 days late, as it was due May 15, 2007. Therefore, these violations are fully justified. Although the Permittee alleges that the late reporting violations for the 1st Quarter 2007 self-monitoring report "should be dismissed because they were not referenced in the First Letter," the Regional Board issued the "First Letter" on October 17, 2006; and the late reporting violations did not start until after May 15, 2007. Therefore, these violations would not have been in the "First Letter."

Since the Permittee requested a review of this violation, the Regional Board has established new deadlines. If you intend to participate in the Expedited Payment Program, you must sign and return the previously sent Acceptance of Conditional Resolution and Waiver of Right to Hearing form by **June 15, 2009**. By signing the Acceptance and Waiver, the Permittee agrees to pay the penalty of \$39,000 as indicated on the amended Exhibit A – Notice of Violation and waives the right to a hearing.

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

If you have questions regarding this matter, please contact Mr. Hugh Marley at (213) 620-6375 or Ms. Mercedes Merino at (213) 620-6369.

Sincerely,



Deborah J. Smith
Chief Deputy Executive Officer

Enclosures:

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

cc: Mayumi Okamoto, Office of Enforcement, State Water Resources Control Board
Preston W. Brooks, Cox, Castle & Nicholson, LLP

California Environmental Protection Agency



Revised Settlement Offer No. R4-2008-0121-M
CI No. 6900, NPDES Permit No. CAG994004

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

Park Encino, LLC
Revised Settlement Offer No. R4-2008-0121-M
NPDES Permit No. CAG994004

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Los Angeles Regional Water Quality Control Board (Regional Board), Park Encino, 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 Notice of Violation (NOV), which is attached hereto as Exhibit "A" and incorporated herein by reference.

The Permittee agrees that the 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 Executive Officer. The Permittee agrees to pay the penalties required by California Water Code section 13385, in the sum of \$39,000 (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 Acceptance and Waiver waives the Permittee's right to contest the allegations in the NOV and the amount of civil liability for such violations.

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

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

Mercedes Merino, 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 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 cause the Regional Board Executive Officer to question the Expedited Payment Amount, the Regional Board Executive Officer will execute the Acceptance and Waiver.

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 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 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 Acceptance and Waiver. In accordance with California Water Code section 13385(n)(1), funds collected for violations of effluent limitations and reporting requirements pursuant to section 13385 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Furthermore, in accordance with California Water Code section 13385.1(b)(1), funds collected pursuant to section 13385.1 for failure to timely file a report shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the \$39,000 liability shall be paid by a cashiers or certified check for \$39,000 made out to the "State Water Pollution Cleanup and Abatement Account". The payment must be submitted to the Regional Board no later than ten (10) calendar days after the date the Permittee receives written notice that the Regional Board Executive Officer has executed this Acceptance and Waiver.

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 Acceptance and Waiver.

Park Encino, LLC

By: RGleit
(Signed Name)

5/21/09
(Date)

RICK GLEITMAN
(Printed or typed name)

PARTNER
(Title)

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: _____

By: _____
Tracy J. Egoscue
Executive Officer

