

ORDER NO. R2-2017-1015
ACCEPTANCE OF CONDITIONAL RESOLUTION
AND WAIVER OF RIGHT TO HEARING

MGP IX SAC II Properties, LLC, The Village at San Antonio Center
455 San Antonio Road, Mountain View, Santa Clara County
NPDES Permit CAG912002, Regulatory Measure ID 411495

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Regional Water Quality Control Board (Regional Water Board), MGP IX SAC II Properties, LLC (Discharger) hereby accepts the conditional offer to settle the alleged violation through payment of mandatory minimum penalties (Conditional Offer) and waives the right to a hearing before the Regional Water Board to dispute the alleged violation set forth in Exhibit A attached hereto and incorporated herein by reference.

The Discharger agrees that Exhibit A shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the Regional Water Board to assert jurisdiction over the alleged violation through its Assistant Executive Officer. The Discharger agrees to pay the penalties authorized by Water Code sections 13385 and 13385.1, which shall be deemed payment in full of any civil liability pursuant to Water Code section 13385 that otherwise might be assessed for the violation described in Exhibit A. The Discharger understands that this Acceptance and Waiver waives its right to contest the allegations in Exhibit A and the amount of civil liability for such a violation.

The Discharger understands that this Acceptance and Waiver does not address or resolve liability for any violation not specifically identified in Exhibit A.

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

California Regional Water Quality Control Board, San Francisco Bay Region
NPDES Wastewater Enforcement Section
Attention: Maya McInerney
1515 Clay Street, Suite 1400
Oakland, California 94612

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

If no comments are received within the notice period that cause the Executive Officer of the Regional Water Board to reject the settlement amount, the Executive Officer will execute the Acceptance and Waiver. Resolution of this violation by the Regional Water Board will preclude State Water Resources Control Board (State Water Board) action for the same violation.

The Discharger understands that if significant comments are received in opposition to the Conditional Offer, the offer may be withdrawn. In that circumstance, the Discharger 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 Water Board or the State Water Board. For

such a liability hearing, the Discharger understands that this Acceptance and Waiver executed by the Discharger will be treated as a settlement communication and will not be used as evidence in that hearing.

The Discharger understands that 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.

The Discharger understands that in lieu of full payment of the assessed mandatory minimum penalty to the State Water Pollution Cleanup and Abatement Account, it may elect to pay a portion toward a supplemental environment project (SEP). There is currently only one SEP option, the SEP Fund to supplement the Regional Monitoring Program (RMP). This SEP Fund will supplement RMP studies that would not otherwise be conducted through the Regional Water Board's annually approved RMP cost allocations. The guiding principal of the RMP is to collect data and communicate information about water quality in the San Francisco Estuary in support of management decisions to restore and protect beneficial uses of the region's waters. Information about the RMP is at <http://www.sfei.org/rmp>. Funding for the RMP is managed and administered by the non-profit San Francisco Estuary Institute. No funds will go to the Regional Water Board. The Regional Water Board will consider the Discharger to have fulfilled its obligation for this SEP after its contribution to the SEP Fund has been received by the Institute. To select this option, place a "✓" or "x" in the box below. By selecting this option, the Discharger agrees to pay the amount indicated below to the SEP Fund. Selection of this SEP Fund option does not change the total amount the Discharger will pay.

Select appropriate box (and fill in blanks if appropriate):

- I choose to pay a portion of the assessed liability to the RMP SEP Fund.
- \$ 3,000 Maximum allowable portion that can be paid to the SEP Fund.
- \$ _____ Leave blank unless the Discharger chooses to pay less than the maximum allowable to the SEP Fund; in this case, then indicate the amount to be paid to the SEP Fund.
- \$ _____ Indicate the amount to be paid to the State which is \$0 unless the Discharger has chosen to pay less than the maximum allowable to the SEP Fund. If the Discharger has chosen to pay less than the maximum allowable to the SEP Fund, then enter the amount to be paid to the State, which shall be the balance of the total assessed mandatory minimum penalty and the amount the Discharger chooses to pay to the SEP Fund.
- \$ 3,000 Total assessed mandatory minimum penalty. This amount must equal the sum of the above, either lines 1 plus 3, or lines 2 plus 3.
- I choose to pay the total assessed mandatory minimum liability in full to the State Water Pollution Cleanup and Abatement Account.

Acceptance of Conditional Resolution and Waiver of Right to Hearing
MGP IX SAC II Properties, LLC
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The Discharger understands that once the Acceptance and Waiver is executed by the Executive Officer of the Regional Water Board, payment no later than 30 days after the date of the Executive Officer's signature is a condition of this Acceptance and Waiver. If the Discharger does not select the SEP Fund option above, the Discharger shall pay the total assessed civil liability in full to the State Water Pollution Cleanup and Abatement Account. If the Discharger selects the SEP Fund option, the Discharger shall pay the portion not paid toward the SEP Fund to the State Water Pollution Cleanup and Abatement Account and pay the balance to the San Francisco Estuary Institute for the SEP Fund. The Regional Water Board will send an invoice for any payment that is due for the SEP Fund. Payment to the State Water Pollution Cleanup and Abatement Account must be submitted in accordance with an invoice for payment from the State Water Board.

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

MGP IX SAC II Properties, LLC

By: Barton CAZOMITE
Printed or typed name

DIRECTOR, MEDICINE CREEK MANAGEMENT, LLC
AS AGENT TO MGP IX SAC II PROPERTIES, LLC
Title


Signature

2-14-17
Date

Note: Please return the signed Acceptance and Waiver with Exhibit A, together.

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

By: _____
Bruce H. Wolfe
Executive Officer
California Regional Water Quality Control Board
San Francisco Bay Region

Date

EXHIBIT A
Notice of Violation

Discharger: MGP IX SAC II Properties
The Village at San Antonio, 455 San Antonio Road, Mountain View,
Santa Clara County
NPDES Permit CA912002

The following table lists alleged violation for which the Discharger is subject to civil liabilities pursuant to Water Code sections 13385 and 13385.1. The table lists the mandatory minimum penalty (MMP) that applies.

No	CIWQS Violation ID No.	Date of Occurrence	Violation Description (Unit)	Monitoring Report Due Date	Days Overdue	Type of Exceedance	Required MMP per CWC Section 13385.1
1	1014019	3/16/2016	Late Discharge Monitoring Report Submittal (report submitted 9/15/16)	2/15/2016	213 days (7 months)	S	\$3,000 (See Note)
Total							\$3,000
<p>Legend for Table: CIWQS = California Integrated Water Quality System database used by the Water Boards to manage violation and enforcement activities. Violation ID = Identification number assigned to a permit exceedance in CIWQS. S = Serious, which means that a penalty under Water Code section 13385.1 applies for failure to timely file a monitoring report.</p> <p>Note: Water Code section 13385.1(b)(1) states that a penalty shall be assessed for each late report, but shall not be assessed for each 30-day period if the discharger did not violate an effluent limit for the reporting period, or on any previous occasion receive a complaint to impose a civil liability for failure to timely file a monitoring report, receive a notice of violation for failure to timely file a monitoring report, or receive a notice of obligation to file a monitoring report.</p> <p style="text-align: right;">Place: 814360 WDID: 2 438702001</p>							