

**ORDER NO. R2-2017-1030**  
**ACCEPTANCE OF CONDITIONAL RESOLUTION**  
**AND WAIVER OF RIGHT TO HEARING**

**Hibiscus Properties, LLC**  
**Facebook Hibiscus, 307-309 Constitution Drive, Menlo Park, San Mateo County**  
**NPDES Permit CAG912002, Regulatory Measure 415779**

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), Hibiscus Properties, LLC (Discharger) hereby accepts the conditional offer to settle alleged violation through payment of mandatory minimum penalties and waives the right to a hearing before the Regional Water Board to dispute the alleged violation. The violation is attached to this Acceptance and Waiver as Exhibit A and incorporated 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 allegation in Exhibit A and the amount of civil liability assessed for the 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, the Discharger shall return the Acceptance and Waiver to the following address:

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

The Discharger understands that the federal regulations set forth in Code of Federal Regulations, title 40, 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, prior to execution by the Regional Water Board's Executive Officer, this Acceptance and Waiver will be published for public comment as required by law.

The Discharger understands that, if no comments are received within the public notice period that cause the Regional Water Board's Executive Officer to reject the settlement amount, the Executive Officer will execute the Acceptance and Waiver. The Regional Water Board's resolution of these violations 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, Water Board staff will advise the Discharger of the withdrawal and may issue an administrative civil liability complaint

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and schedule the matter for a hearing before the Regional Water Board or State Water Board. For such a hearing, the Discharger understands that its executed Acceptance and Waiver will be treated as a settlement communication and will not be used as evidence in the hearing.

The Discharger understands that funds collected for violations 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 supplements 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 available at <http://www.sfei.org/rmp>. The non-profit San Francisco Estuary Institute manages and administers RMP funding. No such funds go to the Regional Water Board.

The Discharger agrees to pay the amounts indicated below to the State Water Pollution Cleanup and Abatement Account and, if chosen, the SEP Fund. The Discharger understands that the Regional Water Board will consider the Discharger to have fulfilled any SEP obligation if and when the San Francisco Estuary Institute receives the Discharger's contribution to the SEP Fund. (Place a "✓" or "✗" in one box below and fill in the blanks as appropriate. Selecting to pay a portion of the assessed liability to the SEP Fund will not change the total amount to be paid.)

Pay a portion of the assessed liability to the RMP SEP Fund.

\$ \_\_\_\_\_ Amount to be paid to the SEP Fund (cannot exceed \$1,500)

\$ 3,000 Amount to be paid to the State Water Pollution Cleanup and Abatement Account (\$3,000 less amount above)

\$ 3,000 Total assessed mandatory minimum penalty (sum of amounts above).

Pay total assessed mandatory minimum liability to the State Water Pollution Cleanup and Abatement Account.

The Discharger understands that once the Regional Water Board's Executive Officer executes this Acceptance and Waiver, payment no later than 30 days after the date of the Executive Officer's signature is a condition of this Acceptance and Waiver. The Discharger shall pay the assessed civil liability to the State Water Pollution Cleanup and Abatement Account and San Francisco Estuary Institute (for the SEP Fund) as selected above. The State Water Board will send an invoice for any payment due to the State Water Pollution Cleanup and Abatement Account. The Regional Water Board will send an invoice for any payment due to the SEP Fund.

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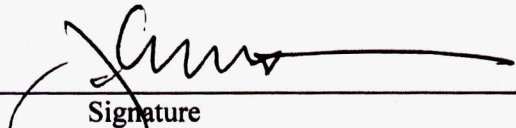


I hereby affirm that I am duly authorized to act on behalf of and to bind the Discharger in the making and giving of this Acceptance and Waiver.

\*\*\*\*\*  
Hibiscus Properties, LLC 

**John Tenanes**  
**VP Global Facilities**

By: \_\_\_\_\_ Title \_\_\_\_\_  
Printed or typed name

 \_\_\_\_\_  
Signature Date  
8-24-17

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

\*\*\*\*\*

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385



Digitally signed by  
Bruce H. Wolfe  
Date: 2017.09.28  
09:26:25 -07'00'

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

**EXHIBIT A**  
**Notice of Violation**

**Discharger:** Hibiscus Properties, LLC  
Facebook Hibiscus, 307-309 Constitution Drive, Menlo Park, San Mateo County  
NPDES Permit CAG912002

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

No	CIWQS Violation ID No.	Occurrence Date	Effluent Limitation or Violation Description (Unit)	Effluent Limit	Reported Value	Percent Group II Pollutant Exceeds Effluent Limitation	Violation Type	CWC Section 13385(h) Required MMP
1	1025435	5/4/2017	1,1,1-Trichloro-1,2,2-trifluoroethane (Freon 113), maximum daily effluent limit, (µg/L)	5.0	8.66	73%	S	\$3,000
<b>Total</b>								<b>\$3,000</b>

**Legend:**

CIWQS = California Integrated Water Quality System database that the Water Boards use to track violations and enforcement.

Violation ID = Identification number assigned to permit violation within CIWQS.

S = Serious. A penalty applies under Water Code section 13385(h) whenever an effluent limitation is exceeded by 40 percent or more for a Group I pollutant or 20 percent or more for a Group II pollutant.

Place: 825810  
WDID: 2\_417210001  
Regulatory Measure: 415779