



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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**Los Angeles Regional Water Quality Control Board**

CALIFORNIA REGIONAL WATER  
QUALITY CONTROL BOARD  
LOS ANGELES REGION

April 8, 2014

Mr. Barry Porter  
Clarity Realty Partners, LLC  
100 N. Crescent Drive, Suite 150  
Beverly Hills, CA 90210

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
Claim No. 7010 3090 0002 1021 8776

**RESPONSE TO REQUEST FOR ALLEGED VIOLATION REVIEW – ISBI CRESCENT DRIVE, LLC (PREVIOUSLY CLARITY REALTY PARTNERS, LLC), 100 NORTH CRESCENT DRIVE, BEVERLY HILLS, CA (ORDER NO. R4-2008-0032, NPDES PERMIT NO. CAG994004, CI NO. 6904)**

Dear Mr. Porter:

Thank you for your letter dated February 21, 2014 from your representative Mr. John J. Allen of Allen Matkins Leck Gamble Mallory & Natsis LLP, responding to the December 13, 2013 Settlement Offer No. R4-2013-0052 (Settlement Offer) issued to the current property owner ISBI Crescent Drive, LLC, which assessed mandatory minimum penalties (MMPs) for effluent limitations and late report violations during the period under Clarity Realty Partners, LLC's ownership. This letter addresses your comments in this regard.

Issue 1:

*Clarity Realty Partners, LLC ("Clarity") asserts the 1<sup>st</sup> Quarter 2006 through 4<sup>th</sup> Quarter 2010 self-monitoring reports (SMRs) were timely submitted as stated in the attached Declaration of Charles A. Luke and Suzanne Clement, former property managers of the subject property.*

Staff Response:

Regional Board staff has reviewed the statements and evidence provided by Clarity and has concluded that there is sufficient evidence to dismiss the alleged late reporting violations contained in the Settlement Offer. Therefore, the nineteen (19) late reporting violations associated with the 1<sup>st</sup> Quarter 2006 through 4<sup>th</sup> Quarter 2010 SMRs cited in December 13, 2013 Settlement Offer No. R4-2013-0120 Exhibit "1" – Notice of Violation (NOV) are hereby dismissed. However, the six (6) late reporting violations between 1<sup>st</sup> Quarter 2011 and 2<sup>nd</sup> Quarter 2012 in the Settlement Offer NOV attached as Exhibit "1" remain.

Issue 2:

*Clarity asserts that the samples collected by their contractor Advanced Technology Laboratories (ATL) were not representative of their discharge as ATL was taking samples from inside of the sump, which was confirmed by Regional Board staff's inspection on December 3, 2012.*

Staff Response 2:

The Regional Board has determined based on the information provided, that a total of six (6) alleged settleable solids effluent limit violations cited on June 30, 2007, December 14, 2009, December 31, 2009, September 30, 2010, December 13, 2010, and December 31, 2010 listed

#232

in the Settlement Offer No. R4-2013-0120 NOV were not representative of effluent at the point of discharge. This determination has been verified with Regional Board staff and the invalid violations will be dismissed from the CIWQS database. Therefore, the six (6) settleable solids effluent limit violations which occurred in the 2<sup>th</sup> Quarter 2007, 4<sup>th</sup> Quarter 2009, 3<sup>rd</sup> Quarter 2010, and 4<sup>th</sup> Quarter 2010 and cited in the Settlement Offer are hereby dismissed. However, be advised that failure to sample and report your discharge in accordance with your waste discharge requirements is a violation of Order No. R4-2008-0032 and the California Water Code and that Clarity is ultimately responsible for compliance with the permit.

You are hereby notified that, based on your February 21, 2014 submittal to the Regional Board, the nineteen (19) late reporting violations for failing to submit the 1<sup>st</sup> Quarter 2006 through 4<sup>th</sup> Quarter 2010 SMR by the due date are hereby dismissed and the six (6) effluent violations on June 30, 2007, December 14, 2009, December 31, 2009, September 30, 2010, December 13, 2010, and December 31, 2010, noted in Settlement Offer No. R4-2013-0120 have been dismissed. However, the late reporting violations cited in the December 13, 2013 Settlement Offer No. R4-2013-0120 NOV attached as Exhibit "1" remain. Accordingly, the new settlement amount is \$18,000.

Since Clarity 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 Acceptance of Conditional Resolution and Waiver of Right to Hearing form by **May 8, 2014**. By signing the Acceptance and Waiver, Clarity Realty Partners, LLC agrees to pay the penalty of \$18,000 as indicated on the Amended Exhibit 1 – NOV 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 any questions regarding this matter, please contact Ms. Pansy Yuen at (213) 620-6367 or by email at [pansy.yuen@waterboards.ca.gov](mailto:pansy.yuen@waterboards.ca.gov) or Mr. Russ Colby at (213) 620-6373 or by email at [russ.colby@waterboards.ca.gov](mailto:russ.colby@waterboards.ca.gov).

Sincerely,



Paula Rasmussen  
Assistant Executive Officer

Enclosures:

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

Mr. Barry Porter  
Clarity Realty Partners, LLC

- 3 -

April 8, 2014

cc: [via email]

Ms. Mayumi Okamoto, Office of Enforcement, State Water Resources Control Board

Mr. Bruce Rothman, KOAR Institutional Advisors, LLC ([bhr@koarllc.com](mailto:bhr@koarllc.com))

Mr. John Allen, Allen Matkins Leck Gamble Mallory & Natsis LLP

([jallen@allenmatkins.com](mailto:jallen@allenmatkins.com))

Mr. Stephen L. Marsh, Mc Kenna Long & Aldridge LLP ([smarsh@mckennalong.com](mailto:smarsh@mckennalong.com))

Ms. Donna Getz, Avison Young-Southern California, LTD.

([Doona.Getez@visonyoung.com](mailto:Doona.Getez@visonyoung.com))

Settlement Offer No. R4-2013-0120  
CI No. 6904, NPDES Permit No. CAG994004

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

Clarity Realty Partners, LLC  
Settlement Offer No. R4-2013-0120  
NPDES Permit No. CAG994004

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QUALITY CONTROL BOARD

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), Clarity Realty Partners, 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 "1" 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 Assistant Executive Officer. The Permittee agrees to pay the penalties required by California Water Code section 13385, in the sum of \$18,000 (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:

Ms. Pansy Yuen, Enforcement Unit  
Expedited Payment Program  
Regional Water Quality Control Board, Los Angeles Region  
320 West 4<sup>th</sup> 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.

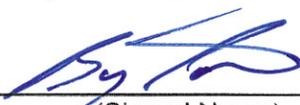
The Permittee further understands that once the Acceptance and Waiver is executed by the Regional Board Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with California Water Code section 13385(n)(1) and California Water Code section 13385.1(c)(1), funds collected for violations of effluent limitations and reporting requirements pursuant to sections 13385 and 13385.1 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the \$18,000 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 Acceptance and Waiver is executed by the Regional Board Executive Officer.

Please mail check to:

State Water Resources Control Board  
Re: Order No. R4-2013-0120  
Division of Administrative Services, Accounting Branch  
1001 I Street, 18<sup>th</sup> Floor, [95814]  
P.O. Box 1888  
Sacramento, California 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 Acceptance and Waiver.

Clarity Realty Partners, LLC

By:   
(Signed Name)

4/10/14  
(Date)

Barry Porter  
(Printed Name)

member  
(Title)

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Samuel Unger, P.E.  
Executive Officer

## AMENDED EXHIBIT "I" - 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
06/30/07	2nd Quarter 2007	Monthly Average*	Settleable Solids	0.20	0.1	m/L	1	100%	Serious	(h)1	Dismissed
12/14/09	4th Quarter 2009	Daily Maximum	Settleable Solids	0.57	0.3	m/L	1	90%	Serious	(h)1	Dismissed
12/31/09	4th Quarter 2009	Monthly Average*	Settleable Solids	0.57	0.1	m/L	1	470%	Serious	(h)1	Dismissed
09/30/10	3rd Quarter 2010	Monthly Average*	Settleable Solids	0.3	0.1	m/L	1	200%	Serious	(h)1	Dismissed
12/13/10	4th Quarter 2010	Daily Maximum	Settleable Solids	3.0	0.3	m/L	1	900%	Serious	(h)1	Dismissed
12/31/10	4th Quarter 2010	Monthly Average*	Settleable Solids	3.0	0.1	m/L	1	2900%	Serious	(h)1	Dismissed
<b>Total</b>											<b>\$0</b>

\* Staff Calculation

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## AMENDED 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
1st Quarter 2006 <sup>A</sup>	Late Report	05/15/2006	02/28/2007	289	9	Serious	(h)(1)	B	Dismissed
2nd Quarter 2006 <sup>A</sup>	Late Report	08/15/2006	02/28/2007	197	6	Serious	(h)(1)	B	Dismissed
3rd Quarter 2006 <sup>A</sup>	Late Report	11/15/2006	02/28/2007	105	3	Serious	(h)(1)	B	Dismissed
1st Quarter 2007 <sup>A</sup>	Late Report	05/15/2007	06/14/2010	1,126	37	Serious	(h)(1)	B	Dismissed
2nd Quarter 2007 <sup>A</sup>	Late Report	08/15/2007	06/14/2010	1,034	34	Serious	(h)(1)	\$3,000	Dismissed
3rd Quarter 2007 <sup>A</sup>	Late Report	11/15/2007	06/14/2010	942	31	Serious	(h)(1)	B	Dismissed
4th Quarter 2007 <sup>A</sup>	Late Report	02/15/2008	06/14/2010	850	28	Serious	(h)(1)	B	Dismissed
1st Quarter 2008 <sup>A</sup>	Late Report	05/15/2008	06/14/2010	760	25	Serious	(h)(1)	B	Dismissed
2nd Quarter 2008 <sup>A</sup>	Late Report	08/15/2008	06/14/2010	668	22	Serious	(h)(1)	B	Dismissed
3rd Quarter 2008 <sup>A</sup>	Late Report	11/15/2008	06/14/2010	576	19	Serious	(h)(1)	B	Dismissed
4th Quarter 2008 <sup>A</sup>	Late Report	02/15/2009	06/14/2010	484	16	Serious	(h)(1)	B	Dismissed
1st Quarter 2009 <sup>A</sup>	Late Report	05/15/2009	06/14/2010	395	13	Serious	(h)(1)	B	Dismissed
2nd Quarter 2009 <sup>A</sup>	Late Report	08/15/2009	06/14/2010	303	10	Serious	(h)(1)	B	Dismissed
3rd Quarter 2009 <sup>A</sup>	Late Report	11/14/2009	06/14/2010	212	7	Serious	(h)(1)	B	Dismissed
4th Quarter 2009 <sup>A</sup>	Late Report	02/14/2010	06/14/2010	120	4	Serious	(h)(1)	\$3,000	Dismissed
1st Quarter 2010	Late Report	05/15/2010	07/27/2010	73	2	Serious	(h)(1)	B	Dismissed
2nd Quarter 2010 <sup>A</sup>	Late Report	08/14/2010	12/10/2012	849	28	Serious	(h)(1)	B	Dismissed
3rd Quarter 2010 <sup>A</sup>	Late Report	11/14/2010	12/10/2012	757	25	Serious	(h)(1)	\$3,000	Dismissed
4th Quarter 2010 <sup>A</sup>	Late Report	02/14/2011	12/10/2012	665	22	Serious	(h)(1)	\$3,000	Dismissed
1st Quarter 2011 <sup>A</sup>	Late Report	05/15/2011	12/10/2012	575	19	Serious	(h)(1)	B	\$3,000
2nd Quarter 2011 <sup>A</sup>	Late Report	08/14/2011	12/10/2012	484	16	Serious	(h)(1)	B	\$3,000
3rd Quarter 2011 <sup>A</sup>	Late Report	11/14/2011	12/10/2012	392	13	Serious	(h)(1)	B	\$3,000
4th Quarter 2011 <sup>A</sup>	Late Report	02/14/2012	12/10/2012	300	10	Serious	(h)(1)	B	\$3,000
1st Quarter 2012 <sup>A</sup>	Late Report	05/15/2012	12/10/2012	209	6	Serious	(h)(1)	B	\$3,000
2nd Quarter 2012 <sup>A</sup>	Late Report	08/14/2012	12/10/2012	118	3	Serious	(h)(1)	B	\$3,000
							<b>Total</b>		<b>\$18,000</b>
							<b>Settlement Total</b>		<b>\$18,000</b>

<sup>A</sup>Each quarterly report was submitted within each annual report<sup>B</sup>Pursuant to California Water Code Section 13385.1(b)