**CERTIFIED MAIL**

October 8, 2018

Peter Ormond, Owner
Date Gardens Mobile Home Park WWTP
9990 Santa Monica Boulevard
Beverly Hills, CA 90212

**7018 1830 0001 0265 0712**

Peter Ormond, Owner
Date Gardens Mobile Home Park WWTP
16209 Quemada Road
Encino, CA 91436

**7018 1830 0001 0265 0743**

Dear Mr. Beatty:

**SUBJECT: CONDITIONAL SETTLEMENT OFFER NO. R7-2018-0032: OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM RELATING TO ALLEGED VIOLATIONS OF ORDER NO. R7-2013-0009, NPDES NO. CA0104841**

This letter notifies Peter M. Ormond, Owner, Date Gardens Mobile Home Park Wastewater Treatment Plant (Discharger) of alleged violation(s) of effluent limitations, and provides the Discharger the opportunity to settle the violation(s) through payment of **$15,000** in mandatory minimum penalties pursuant to California Water Code (Water Code) sections 13385 and/or 13385.1. Please reply by **November 7 2018.**

## NOTICE OF VIOLATION

The Assistant Executive Officer alleges that the Discharger has violated the above-referenced National Pollutant Discharge Elimination System (NPDES) permit as identified in Exhibit A, attached hereto and incorporated by reference. The Discharger can resolve the alleged violations as discussed below.

## STATUTORY LIABILITY

Water Code Section 13385, subdivisions (h) and (i), require the assessment of a $3,000 mandatory minimum penalty for specified serious and chronic effluent limitation violations. The Discharger is also subject to discretionary administrative civil liability of up to $10,000 per day for each violation, plus $10 for each gallon discharged but not cleaned up in excess of 1,000 gallons. The Colorado River Basin Regional Water Quality Control Board (Regional Water Board) may assess mandatory minimum penalties and discretionary administrative civil liability beginning with the date on which the violations first occurred. The formal enforcement action that the Regional Water Board uses to assess such liability is an administrative civil liability complaint. Alternatively, the Regional Water Board may refer the matter to the Attorney General's Office for prosecution in the Superior Court. The Superior Court may assess up to $25,000 per day for each violation, plus $25 per gallon discharged but not cleaned up in excess of 1,000 gallons.

**OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM**
The Discharger can avoid the issuance of a formal enforcement action and settle the alleged violation(s) identified in Exhibit A by participating in the Regional Water Board's Expedited Payment Program. The Discharger may accept this Conditional Settlement Offer, waive its right to a hearing, and pay the mandatory minimum penalty of **$15,000** for the violation(s) described in Exhibit A. If the Discharger elects to do so, the Regional Water Board will execute the settlement offer subject to the conditions below. The Regional Water Board will accept the payment in settlement of any enforcement action that would otherwise arise out of the violation(s) identified in Exhibit A. Accordingly, the Regional Water Board will not issue a formal administrative civil liability complaint, will not refer the violation(s) to the Attorney General's Office, and will waive its right to seek additional discretionary civil liability for the violation(s) identified in Exhibit A.

This Conditional Settlement Offer does not address or resolve liability for any violation that is not specifically identified in Exhibit A.

**DISCHARGER'S OPTIONS FOR RESPONSE TO OFFER**
To accept this Conditional Settlement Offer, the Discharger must complete, sign, and return the enclosed "Acceptance of Conditional Resolution and Waiver of Right to Hearing" (Acceptance and Waiver) on or before **November 7, 2018 (30 days).**

If the Discharger chooses to contest any of the violations alleged in Exhibit A, please identify the specific violation(s) and the basis for the challenge (factual error, affirmative defense, etc.) on or before the due date specified above. Regional Water Board staff will evaluate the contested violation and take one of two actions:

1) Determine that the violation warrants dismissal, dismiss the alleged violation(s) in the California Integrated Water Quality System (CIWQS) database, notify the Discharger of the dismissal, and take no further action against the Discharger for the alleged violation(s); or

2) Determine that the alleged violation(s) is/are meritorious and notify the Discharger of that determination. The Discharger will then have 30 days from the date of the notice of determination to accept settlement for the violation by submitting a complete Acceptance and Waiver. If the Discharger chooses not to accept, or makes no reply to the determination within 30 days, the Discharger will be contacted by the Regional Water Board staff regarding a formal enforcement proceeding for the contested violation(s). Information received by Regional Water Board staff during any formal investigation and assessment of the violation(s), as well as staff costs associated with pursuing the enforcement, may increase the liability beyond that set forth in this Conditional Settlement Offer.

**CONDITIONS FOR REGIONAL WATER BOARD ACCEPTANCE OF RESOLUTION**
Federal regulations require the Regional Water Board to publish and allow the public at least 30 days to comment on any settlement of an enforcement action addressing NPDES permit violations (40 C.F.R. section 123.27(d)(2)(iii)). Upon receipt of the Discharger's Acceptance and Waiver, Regional Water Board staff will publish a notice of the proposed resolution of the violation(s).

If Regional Water Board staff do not receive comments within the 30-day comment period and no new material facts become available to the Regional Water Board, the Executive Officer will execute the Acceptance and Waiver as a stipulated order assessing the uncontested mandatory minimum penalty amount pursuant to Water Code Sections 13385 and/or 13385.1.

If, however, significant comments are received in opposition to the Settlement, the Offer may be withdrawn. In that case, the Discharger's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn and the violation(s) will be addressed in a liability assessment proceeding. At the liability assessment hearing the Discharger will be free to make arguments as to any of the alleged violations, and the Discharger's agreement to accept this conditional settlement offer will not in any way be binding or used as evidence against the Discharger. The Discharger will be provided with further information on the liability assessment proceeding.

In the event the Executive Officer executes the Acceptance and Waiver, full payment of the assessed amount shall be due within 30 calendar days from the date of the Executive Officer's signature. Funds collected for violations under Water Code Sections 13385 and 13385.1 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the **$15,000** liability shall be paid by cashiers or certified check made out to the "State Water Pollution Cleanup and Abatement Account". Failure to pay the full penalty within the required time may subject the Discharger to further liability.

Please send your reply to the attention of Kai Dunn, either by email or U.S. mail. If you want to discuss or have questions regarding this Conditional Settlement Offer, please contact Kai Dunn at (760) 776-8986 or Kai.Dunn@waterboards.ca.gov.

Sincerely,

Frank Gonzalez

Frank Gonzalez, P.E.
Assistant Executive Officer
Colorado River Basin
Regional Water Quality Control Board

KD/tab

Enclosure: Exhibit A – Notice of Violation
Exhibit B - Acceptance of Conditional Resolution and Waiver of Right to Hearing

File: WDID No. 7A 13 1057 011, Date Gardens MHP WWTP
ECM: CW-219146

**EXHIBIT "A"**

MANDATORY PENALTY ADMINISTRATIVE CIVIL LIABILITY

Ormand, Peter M

Peter M Ormand Date Gardens MHP

WDID No. 7A131057011 NPDES No. CA0104841

***Effluent Limitation Violations Requiring Mandatory Minimum Penalties***

| # | Violation Number | Violation Date | Constituent | Pollutant Group | Limitation Period | Limit | Result/ Average | Units | % Over Limit | or Chronic Violatio | Penalty |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 1041096 | 02/21/2018 | Fecal Coliform | Other | Instantaneous | 400 | 1600 | MPN/100 | N/A | N/A | $ 0 |
| 2 | 1041537 | 02/28/2018 | Fecal Coliform | Other | 10% for 30 days | 400 | 1600 | MPN/100 | N/A | N/A | $ 0 |
| 3 | 1043653 | 04/04/2018 | Cyanide, Free Available | Group 2 | Daily Maximum | 1 | 5 | ug/L | 400% | N/A | $ 0 |
| 4 | 1044989 | 05/08/2018 | Enterococci | Other | Instantaneous | 100 | 2419.2 | MPN/100 | N/A | C | $ 3,000 |
| 5 | 1044987 | 05/14/2018 | Enterococci | Other | Instantaneous | 100 | 2419.2 | MPN/100 | N/A | C | $ 3,000 |
| 6 | 1044988 | 05/31/2018 | Enterococci | Other | 30-Day Average | 33 | 94 | MPN/100 | N/A | C | $ 3,000 |
| 7 | 1046008 | 06/12/2018 | Enterococci | Other | Instantaneous | 100 | 960.6 | MPN/100 | N/A | C | $ 3,000 |
| 8 | 1046007 | 06/30/2018 | Enterococci | Other | 30-Day Average | 30 | 50 | MPN/100 | N/A | C | $ 3,000 |

***Total Penalty:*** $ 15,000

1 - Violation occurs on sample date or last date of averaging period.

2 - For Group I pollutants, a violation is serious when the limit is exceeded by 40% or more

- For Group II pollutants, a violation is serious when the limit is exceeded by 20% or more

3 - When a serious violation occurs on the same day as a chronic, the serious violation is only assessed an MMP once and is counted last for the day when determining the number of chronic violations to be assessed a

**Violation period ending the last day of June 2018**

Group I Violations Assessed MMP: 0

Group II Violations Assessed MMP: 0

Other Effluent Violations Assessed MMP: 5

Violations Exempt from MMP: 0

Total Violations Assessed MMP: 5

**Mandatory Minimum Penalty = (0 Serious Violations + 5 Non-Serious Violations) x $3,000 = $15,000**

**Exhibit B**
**ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING**

Peter M. Ormond, Owner/Operator
Date Gardens Mobile Home Park, Wastewater Treatment Plant
WDR Order No. R7-2018-0009 (NPDES No. CA0104841)

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the California Regional Water Quality Control Board, Colorado River Basin Region (Regional Water Board), the Peter M. Ormond, Owner, Date Gardens Mobile Home Park Wastewater Treatment Plant (Discharger) hereby accepts the conditional settlement offer to settle the alleged violation(s) through payment of mandatory minimum penalties and waives the right to a hearing before the Regional Water Board to dispute the alleged violation(s). The alleged violation(s) are 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 California Water Code and that no separate Complaint is required for the Regional Water Board to assert jurisdiction over the alleged violation(s) through its Assistant Executive Officer. The Discharger agrees to pay the penalties required by California Water Code sections 13385 and/or 13385.1, in the sum of **$15,000** (Expedited Payment Amount), 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(s) 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 assessed for the violation(s).

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

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

California Regional Water Quality Control Board, Colorado River Basin
Attention: Kai Dunn
73720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

The Discharger understands that federal regulations set forth at 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 thirty (30) days for public comment on any proposed resolution of an enforcement action addressing NPDES permit violations. Accordingly, this Acceptance and Waiver will be published as required by law for public comment prior to the Executive Officer's execution.

The Discharger understands that if no comments are received within the public notice period that causes the Executive Officer to question the conditional settlement offer, the Executive Officer will execute this Acceptance and Waiver.

The Discharger understands that if significant comments are received in opposition to the conditional settlement 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. For such a liability 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 that hearing.

The Discharger understands that once the Executive Officer executes this Acceptance and Waiver, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver.

The Discharger understands that funds collected for violations under Water Code sections 13385 and 13385.1 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the liability shall be paid by a cashier's or certified check for **$15,000** made out to the "State Water Pollution Cleanup and Abatement Account."

The Discharger understands that payment must be submitted to the State Water Resources Control Board no later than thirty (30) calendar days after the date on which the Executive Officer executes this Acceptance and Waiver.

The Discharger shall mail the check to:

State Water Resources Control Board
Division of Administrative Services, Accounting Branch
Attn: ACL Payment
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 Discharger in the making and giving of this Acceptance and Waiver.

Date Gardens Mobile Home Park Wastewater Treatment Plant

By: _____ _____
Signed Name Date

_____ _____
Printed or Typed Name Title

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

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385.

By: _____ _____
PAULA RASMUSSEN Date
Executive Officer

**Exhibit B**
**ACCEPTANCE OF CONDITIONAL RESOLUTION**
**AND WAIVER OF RIGHT TO HEARING**

Peter M. Ormond, Owner/Operator
Date Gardens Mobile Home Park, Wastewater Treatment Plant
WDR Order No. R7-2018-0009 (NPDES No. CA0104841)

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the California Regional Water Quality Control Board, Colorado River Basin Region (Regional Water Board), the Peter M. Ormond Trust, Owner, Date Gardens Mobile Home Park Wastewater Treatment Plant (Discharger) hereby accepts the conditional settlement offer to settle the alleged violation(s) through payment of mandatory minimum penalties and waives the right to a hearing before the Regional Water Board to dispute the alleged violation(s). The alleged violation(s) are 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 California Water Code and that no separate Complaint is required for the Regional Water Board to assert jurisdiction over the alleged violation(s) through its Assistant Executive Officer. The Discharger agrees to pay the penalties required by California Water Code sections 13385 and/or 13385.1, in the sum of **$15,000** (Expedited Payment Amount), 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(s) 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 assessed for the violation(s).

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

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

California Regional Water Quality Control Board, Colorado River Basin
Attention: Kai Dunn
73720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

The Discharger understands that federal regulations set forth at 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 thirty (30) days for public comment on any proposed resolution of an enforcement action addressing NPDES permit violations. Accordingly, this Acceptance and Waiver will be published as required by law for public comment prior to the Executive Officer's execution.

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The Discharger understands that funds collected for violations under Water Code sections 13385 and 13385.1 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the liability shall be paid by a cashier's or certified check for **$15,000** made out to the "State Water Pollution Cleanup and Abatement Account."

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The Discharger shall mail the check to:

State Water Resources Control Board
Division of Administrative Services, Accounting Branch
Attn: ACL Payment
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 Discharger in the making and giving of this Acceptance and Waiver.

Date Gardens Mobile Home Park Wastewater Treatment Plant

By: Trustee _____ 10-18-2018 _____
Signed Name Date

Robert Ormond _____ Trustee - Peter Ormond Trust _____
Printed or Typed Name Title

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

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385.

By: _____ _____
PAULA RASMUSSEN Date
Executive Officer