



Lahontan Regional Water Quality Control Board

April 17, 2023

Tahoe Keys Marina and Yacht Club, LLC
c/o Porter Simon Law Offices
Attn: Brian Hanley, Esq.
40200 Truckee Airport Road, Suite I
Truckee, CA 96161
hanley@portersimon.com

CERTIFIED MAIL
7021 1970 0001 8927 1108
RETURN RECEIPT REQUESTED

FINALIZED ORDER AND INVOICE FOR PAYMENT, TAHOE KEYS MARINA AND YACHT CLUB LLC, EL DORADO COUNTY

Enclosed for your records is a signed copy of Lahontan Regional Water Quality Control Board (Lahontan Water Board) Order No. R6T-2023-0003. As described below, this Order memorializes the settlement reached between the Lahontan Water Board and Tahoe Keys Marina and Yacht Club, LLC for violations of the *General Waste Discharge Requirements and National Pollutant Discharge Elimination System Permit for Storm Water Runoff Associated with Marina Operations in the Lake Tahoe Hydrologic Unit*, Board Order No. R6T-2016-0038 (Marina General Permit), as well as the previous Marina General Permit, Order No. R6T-2011-0024. This letter also serves as your invoice for payment of the agreed-upon administrative civil liability.

On February 21, 2023, the Tahoe Keys Marina and Yacht Club, LLC accepted the Settlement Offer in the amount of \$42,000 and waived its right to a hearing before the Lahontan Water Board by signing the *Acceptance of Conditional Resolution and Waiver of Right to Hearing* (Acceptance and Waiver) document. The Prosecution Team subsequently posted the Settlement Offer and signed *Acceptance and Waiver* on the Water Board's website for a 30-day public comment period as required by federal regulations. No comments were received. The Prosecution Team then presented the *Acceptance and Waiver* to the Lahontan Water Board's Executive Officer (acting as head of the Advisory Team) for formal endorsement of the Order on behalf of the Lahontan Water Board. A copy of the endorsed *Acceptance and Waiver*, Order No. R6T-2023-0003, is enclosed.

As a condition of the *Acceptance and Waiver*, Tahoe Keys Marina and Yacht Club, LLC agreed to full payment of the \$42,000 administrative civil liability within 30 days of the date of an invoice from the Lahontan Water Board. This letter constitutes your invoice.

Please remit payment of **\$42,000 (forty-two thousand dollars)** by cashier's check or certified check that references *ACL Order No. R6T-2023-0003* and is made payable to the *State Water Resources Control Board Cleanup and Abatement Account*. Please send the payment to:

State Water Resources Control Board
Accounting Office, Attn: ACL Payment

PETER C. PUMPHREY, CHAIR | MICHAEL R. PLAZIAK, EXECUTIVE OFFICER

PO Box 1888
Sacramento, CA 95812-1888

The payment must be received by **May 14, 2023**. In addition, a copy of the check must be mailed or emailed to:

Shelby Barker, Enforcement Coordinator
Lahontan Regional Water Quality Control Board
15095 Amargosa Road, Building 2, Suite 210
Victorville, CA 92394
shelby.barker@waterboards.ca.gov

Late payment will result in this matter being referred to a collection agency or to the Attorney General's office for prosecution, resulting in a judgment to collect from the appropriate superior court. Alternatively, the Lahontan Water Board may obtain a judgment directly from the superior court pursuant to Water Code section 13328.

If you have any questions, please contact Wendy Wyels at wendy.wyels@waterboards.ca.gov.



SHELBY BARKER, PG, CHG
Senior Engineering Geologist
Enforcement Coordinator

Enclosure: Order No. R6T-2023-0003

cc: Michael Plaziak, Executive Officer, Lahontan Water Board
Elizabeth Beryt, Office of Chief Counsel, State Water Board
Catherine Hawe, Office of Enforcement, State Water Board
Wendy Wyels, Office of Enforcement, State Water Board
Ben Letton, Assistant Executive Officer, Lahontan Water Board
T.J. Middlemis-Clark, Supervising WRCE, Lahontan Water Board
Robert Tucker, Senior Water Resources Control Engineer, Lahontan Water Board
Mary Fiore-Wagner, Senior Environmental Scientist, Lahontan Water Board
Brian Judge, Lahontan Water Board
Katrina Fleshman, Lahontan Water Board

Lahontan Regional Water Quality Control Board

ENCLOSURE 2

ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING; ORDER

Tahoe Keys Marina and Yacht Club, LLC
c/o Porter Simon Law Offices
Attn: Brian Hanley, Esq.
40200 Truckee Airport Road, Suite I
Truckee, CA 96161
hanley@portersimon.com

Settlement Offer No. R6T-2023-0003

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, Lahontan Region (Lahontan Water Board), Tahoe Keys Marina and Yacht Club, LLC (hereinafter referred to as “Discharger”) hereby accepts the “Offer to Participate in Expedited Payment Program” and waives the right to a hearing before the Lahontan Water Board to dispute the allegations of violations described in the Record of Violations (ROV), which is incorporated herein by reference.

The Discharger agrees that the ROV shall serve as a complaint pursuant to Division 7, Chapter 5, Article 2.5 of the California Water Code (Water Code) and that no separate complaint is required for the Lahontan Water Board to assert jurisdiction over the alleged violations through its Chief Prosecutor. The Discharger agrees to pay the penalties required by Water Code section 13385, in the sum of **\$42,000.00** (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 violations or matters described in the ROV, including the notes, summary and remarks. The Discharger understands that this Acceptance and Waiver waives its right to contest the allegations in the ROV and the amount of civil liability for such violations.

The Discharger understands that this Acceptance and Waiver does not address or resolve liability for any violation or matter that is not described in the ROV. The ROV includes all alleged violations based on staff’s review of all sampling data submitted to

PETER C. PUMPHREY, CHAIR | MICHAEL R. PLAZIAK, PG, EXECUTIVE OFFICER

Settlement Offer No. R6T-2023-0003

demonstrate compliance with the applicable effluent limitations during the Discharger's ownership and operation of the Tahoe Keys Marina.

Upon execution by the Discharger, the completed Acceptance and Waiver shall be submitted via email to both Lahontan@waterboards.ca.gov and to Wendy Wyels at wendy.wyels@waterboards.ca.gov. Please include "Tahoe Keys Marina and Yacht Club Expedited Payment Letter" in the transmittal email's subject line.

The Discharger understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Water Boards 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 Lahontan Water Board Executive Officer, will be published as required by law for public comment.

If no comments are received within the notice period that causes the Lahontan Water Board Executive Officer to question the Expedited Payment Amount, the Lahontan Water Board Executive Officer will execute the Acceptance and Waiver.

The Discharger understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Lahontan Water Board to resolve the violations set forth in the ROV 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 Lahontan Water Board. For such a liability hearing, the Discharger understands that this executed Acceptance and Waiver will be treated as a settlement communication and will not be used as evidence in that hearing.

The Discharger further understands that once the Acceptance and Waiver is executed by the Lahontan Water Board Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with Water Code section 13385(n)(1), funds collected for violations of effluent limitations pursuant to section 13385 and 13385.1 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the **\$42,000.00** liability shall be paid by a cashier or certified check for **\$42,000.00**, made out to the "*State Water Pollution Cleanup and Abatement Account*" referencing the number of this Settlement Offer.

The payment must be submitted to the State Water Resources Control Board, Division of Administrative Services, Accounting Branch 1001 I Street, 18th Floor, Sacramento, California 95814, no later than thirty (30) days after the date the Acceptance and Waiver is executed by the Lahontan Water Board Executive Officer.

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.

Settlement Offer No. R6T-2023-0003

Tahoe Keys Marina and Yacht Club, LLC

By: Original signed by Kim M. Plencner 02/21/2023
(Signed Name) (Date)
Kim m. Plencner Manager
(Printed or typed name) (Title)

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: April 14, 2023



By: _____
MICHAEL R. PLAZIAK
EXECUTIVE OFFICER