



Central Coast Regional Water Quality Control Board

December 6, 2022

Danny Samuel
Warden
California Department of Corrections
and Rehabilitation
P.O. Box 8101
San Luis Obispo, CA 93409-8101
c/o Jason Steck
Email: Jason.Steck@cdcr.ca.gov

**Via Electronic Mail and Certified Mail
No. 7020 1810 0002 0773 8262**

Dear Mr. Samuel:

ENFORCEMENT PROGRAM: EXPEDITED PAYMENT LETTER (EPL) NO. R3-2022-0068, ACCEPTANCE OF CONDITIONAL OFFER AND WAIVER OF HEARING EXECUTED AS ADMINISTRATIVE CIVIL LIABILITY ORDER FOR CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION EFFLUENT VIOLATIONS OF WDR ORDER NO. R3-2020-0005, CALIFORNIA MEN'S COLONY WASTEWATER TREATMENT FACILITY, SAN LUIS OBISPO COUNTY, NPDES NO. CA0047856, WDID NO. 3 400108001

Enclosed is Acceptance of Conditional Offer and Waiver of Right to Hearing; Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. R3-2022-0068 (Order), countersigned by the Central Coast Regional Water Quality Control Board (Central Coast Water Board) Executive Officer. The Order resolves mandatory minimum penalties for violations of effluent limitations contained in Waste Discharge Requirements Order No. R3-2020-0005, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0047856, that occurred from June 26, 2021, through July 23, 2022 as shown in the attached Exhibit A, Notice of Violation. Central Coast Water Board staff publicly noticed the Order from October 21, 2022, through November 20, 2022, and received no comments.

As provided in the Order, the California Department of Corrections and Rehabilitation (CDCR) is subject to a total expedited payment amount of \$36,000, which the CDCR must pay to the State Water Resources Control Board (SWRCB) State Water Pollution Cleanup and Abatement Account **by January 5, 2023¹** as follows:

¹ Please note that this due date supercedes any other due date that may be shown on invoices.

1. \$36,000 by check payable to "SWRCB Cleanup and Abatement Account", noting "ACL Order No. R3-2022-0068" on the check, and mailed to:

Attn: ACL Payment
SWRCB Accounting Office
P.O. Box 1888
Sacramento, CA 95812-1888

2. A copy of the above payment mailed to:

Central Coast Regional Water Quality Control Board
Enforcement Unit, Attention: Todd Stanley
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

The SWRCB Division of Administrative Services Fee Branch [(916) 341-5247 or Fee_Branch@waterboards.ca.gov] will mail an invoice for the Cleanup and Abatement Account (CAA) payment. The CDCR may make the CAA payment before receiving the invoice as long as reference is made to the Order number as instructed above. If the CDCR elects to pay before receiving the invoice, Central Coast Water Board staff advises the CDCR to also follow up by contacting the Fee Branch to confirm the payment is posted appropriately.

If the CDCR wishes to make the CAA payment by online electronic fund transfer, the CDCR must first wait to receive the above invoice as the invoice number is needed for the transaction. The CDCR may then go to [the Fee Branch's website](#) and select "*Pay your water quality program invoice online!*".

Payment will conclude the Central Coast Water Board's enforcement action for violations identified in Expedited Payment Letter No. R3-2022-0068, dated September 19, 2022.

If you have any questions, please contact Leah Lemoine at (805) 549-3159 or Leah.Lemoine@waterboards.ca.gov, or Thea Tryon at Thea.Tryon@waterboards.ca.gov or (805) 542-4776.

Sincerely,

Matthew T. Keeling
Executive Officer

Enclosures:

1. Acceptance of Conditional Offer and Waiver of Right to Hearing; Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. R3-2022-0068
2. Exhibit A - Notice of Violation

cc via email:

California Department of Corrections and Rehabilitation:

Miles (Terry) Bettencourt, miles.bettencourt@cdcr.ca.gov

Bryan Phillips, bryan.phillips@cdcr.ca.gov

RJ Rollings, rj.rollings@cdcr.ca.gov

Scott Buffalo, scott.buffaloe@cdcr.ca.gov

Central Coast Water Board:

Thea Tryon

Tamara Anderson

Harvey Packard

Leah Lemoine

Todd Stanley

File Location: R:\RB3\Shared\Enforcement\EPLs\2022_CMC MMP ACLO 22-0068\CMC MMP ACLO 22-0068 Ltr.docx

ECM Primary Indexing # 212681

**ACCEPTANCE OF CONDITIONAL OFFER
AND WAIVER OF RIGHT TO HEARING;
SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF
ADMINISTRATIVE CIVIL LIABILITY (ACL) ORDER NO. R3-2022-0068
(UPON EXECUTION)**

California Department of Corrections and Rehabilitation, California Men's Colony
Wastewater Treatment Facility
EPL No. R3-2022-0068
Waste Discharge Requirements Order No. R3-2020-0005
National Pollutant Discharge Elimination System (NPDES) Permit No. CA0047856
WDID: 3 40 0108001

By signing below and returning this Acceptance of Conditional Offer and Waiver of Right to Hearing (Acceptance and Waiver) to the Central Coast Regional Water Quality Control Board (Central Coast Water Board), the California Department of Corrections and Rehabilitation (Permittee) hereby accepts Expedited Payment Letter No. R3-2022-0068 (Conditional Offer) to participate in the expedited payment program relating to violations of the Permittee's NPDES permit for the California Men's Colony Wastewater Treatment Facility, and waives the right to a hearing before the Central Coast Water Board to dispute the alleged violations described in the notice of violation (NOV) attached to the Conditional Offer as Exhibit A and incorporated herein by reference.

The Permittee agrees that the NOV shall serve as a complaint pursuant to Division 7, Chapter 5, Article 2.5 of the California Water Code and that no separate complaint is required for the Central Coast Water Board to assert jurisdiction over the alleged violations through its enforcement staff. The Permittee agrees to pay the penalties authorized by California Water Code section 13385, as specified in the NOV (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.

Expedited Payment Amount: \$36,000.

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 signature by the Permittee, the Permittee must return this Acceptance and Waiver to:

Thea Tryon
Assistant Executive Officer
Central Coast Water Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Expedited Payment Letter (EPL) No. R3-2022-0068
Settlement Agreement and Stipulation for Entry of
Administrative Civil Liability Order No. R3-2022-0068

The Permittee understands that federal regulations set forth in title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Central Coast Water Board to publish notice of any proposed settlement of this enforcement action and provide at least 30 days for public comment. Accordingly, Central Coast Water Board staff will publish this Acceptance and Waiver for public comment prior to execution by the Executive Officer of the Central Coast Water Board.


The Permittee understands that if significant comments are received in opposition to the Conditional Offer, then the Central Coast Water Board enforcement staff's offer to resolve the violations set forth in the NOV may be withdrawn. In that circumstance, Central Coast Water Board enforcement staff will advise the Permittee of the withdrawal, a revised offer or an administrative civil liability complaint may be issued, and the matter may be set for a hearing before the Central Coast Water 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.

If no comments are received within the notice period that cause the Executive Officer to reconsider the Conditional Offer, the Executive Officer will execute the Acceptance and Waiver as Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. R3-2022-0068 (Settlement and Order).

The Permittee understands that no payments are due at the time it returns the signed Acceptance and Waiver form to the Central Coast Water Board. The Permittee understands that after the signed Acceptance and Waiver is publicly noticed and executed by the Executive Officer of the Central Coast Water Board, Central Coast Water Board staff will transmit this Acceptance and Waiver as an executed Settlement and Order to the Permittee with payment instructions and due dates. Furthermore, the Permittee understands that full payment of the expedited payment amount by the hereby incorporated due date or dates specified in the transmittal letter and/or invoices associated with the executed Settlement and Order is a condition of this Acceptance and Waiver.

Expedited Payment Letter (EPL) No. R3-2022-0068
Settlement Agreement and Stipulation for Entry of
Administrative Civil Liability Order No. R3-2022-0068

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 and the terms of the Settlement and Order.

By: 
(Signed Name)

10/17/2022
(Date)

NATHANIEL GAUGHAN
(Printed or typed name)

ASSOCIATE WARDEN
(Title)

Expedited Payment Letter (EPL) No. R3-2022-0068
Settlement Agreement and Stipulation for Entry of
Administrative Civil Liability Order No. R3-2022-0068

IT IS HEREBY ORDERED pursuant to Water Code section 13323, Government Code section 11415.60, and Resolution No. R3-2014-0043, on behalf of the California Regional Water Quality Control Board, Central Coast Region.

By: _____

Matthew T. Keeling
Executive Officer
Central Coast Water Board

ECM Primary Indexing # 212681

Exhibit A – Notice of Violation
California Department of Corrections and Rehabilitation
California Men’s Colony Wastewater Treatment Facility
Mandatory Minimum Penalty Violations Requiring Enforcement
Alleged Violation Dates: June 26, 2021 – July 23, 2022

The enforcement staff of the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) reviewed information submitted by this facility to determine whether the discharger is subject to mandatory minimum penalties (MMPs) pursuant to subdivisions (h) and (i) of California Water Code section 13385. The following table lists this facility’s alleged violations of Waste Discharge Requirements Order No. R3-2020-0005, National Pollutant Discharge Elimination System Permit No. CA0047856 from June 26, 2021, through July 23, 2022, for which the Central Coast Water Board has not assessed MMPs. Final calculation of MMP amounts owed and definitions of some of the terms used in this document are listed below the table.

For additional information about the alleged violations listed in the table, please refer to [the State Water Resources Control Board CIWQS Public Reports webpage](#) and select the “Mandatory Minimum Penalty (MMP) Report” link located under the “Violations Reports” category. Once in the Mandatory Minimum Penalty Reports search page, select Region 3 along with the beginning and ending dates shown in this exhibit, select Run Report, and then select your facility to access the list of violations. Expand the “Effluent MMP Violations” section of the page by selecting the “+” icon to the left of the section title. To view details of a violation, select the “Violation ID” number. For chronic (non-serious) violations, select the “Chronic” link in the “MMP Type” column to see a list of the three or more violations preceding each chronic violation within 180 days and thus qualifying the chronic violation as an MMP.

EPL No. R3-2022-0068 – Exhibit A
 Stipulated ACL Order No. R3-2022-0068
 California Department of Corrections and Rehabilitation
 California Men's Colony WWTP

#	Violation Number	Violation Date	Pollutant	Pollutant Type	Limitation Period	Limit	Result	Units	% Over Limit	Serious or Non-Serious (Chronic) Violation	Date 180 Days Prior	No. of Viols within 180 days	Mandatory Minimum Penalty
1	1092347	06/26/21	Settleable Solids	Group 1	Daily Maximum	0.3	0.6	mL/L	100	S	N/A	N/A	\$ 3,000
2	1095999	07/13/21	Bis (2-Ethylhexyl) Phthalate	Group 2	Maximum Daily	3.6	7.3	µg/L	103	S	N/A	N/A	\$ 3,000
3	1093396	07/31/21	Bis (2-Ethylhexyl) Phthalate	Group 2	Monthly Average	1.8	7.3	µg/L	306	S	N/A	N/A	\$ 3,000
4	1102930	02/28/22	Copper, Total	Group 2	Monthly Average	7.5	13	µg/L	73	S	N/A	N/A	\$ 3,000
5	1107848	07/14/22	Total Coliform	Other	Seven Sample Median	2.2	4.5	MPN/100 mL	N/A	C	01/15/22	4	\$ 3,000
6	1107849	07/15/22	Total Coliform	Other	Seven Sample Median	2.2	4.5	MPN/100 mL	N/A	C	01/16/22	5	\$ 3,000
7	1107850	07/18/22	Total Coliform	Other	Seven Sample Median	2.2	4.5	MPN/100 mL	N/A	C	01/19/22	6	\$ 3,000

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 California Department of Corrections and Rehabilitation
 California Men’s Colony WWTP

#	Violation Number	Violation Date	Pollutant	Pollutant Type	Limitation Period	Limit	Result	Units	% Over Limit	Serious or Non-Serious (Chronic) Violation	Date 180 Days Prior	No. of Viols within 180 days	Mandatory Minimum Penalty
8	1107851	07/19/22	Total Coliform	Other	Seven Sample Median	2.2	4.5	MPN/100 mL	N/A	C	01/20/22	7	\$ 3,000
9	1107852	07/20/22	Total Coliform	Other	Seven Sample Median	2.2	4.5	MPN/100 mL	N/A	C	01/21/22	8	\$ 3,000
10	1107853	07/21/22	Total Coliform	Other	Seven Sample Median	2.2	4.5	MPN/100 mL	N/A	C	01/22/22	9	\$ 3,000
11	1107854	07/22/22	Total Coliform	Other	Seven Sample Median	2.2	4.5	MPN/100 mL	N/A	C	01/23/22	10	\$ 3,000
12	1107855	07/23/22	Total Coliform	Other	Seven Sample Median	2.2	4.5	MPN/100 mL	N/A	C	01/24/22	11	\$ 3,000

Total Penalty: \$36,000

Total Mandatory Minimum Penalty Amount for Effluent Violations
 (4 Serious Violations + 8 Non-Serious Violations) × \$3,000 = \$36,000

For Group 1 pollutants, a violation is serious when the limit is exceeded by 40% or more, and non-serious (referred to as “chronic” in CIWQS) when the limit is exceeded by less than 40%.

EPL No. R3-2022-0068 – Exhibit A
 Stipulated ACL Order No. R3-2022-0068
 California Department of Corrections and Rehabilitation
 California Men’s Colony WWTP

For Group 2 pollutants, a violation is serious when the limit is exceeded by 20% or more, and non-serious when the limit is exceeded by less than 20%.

For “Other” (i.e., Other Effluent Violation) pollutants, a violation is non-serious when the limit is exceeded by any amount. For the purposes of MMP enforcement, Other Effluent Violations are not categorized as serious.

Serious violations are subject to a mandatory minimum penalty of \$3,000 each.

Non-serious (also known as chronic) violations are subject to a mandatory minimum penalty of \$3,000 each when four or more occur in any period of six consecutive months (period commencing on the date that one of the violations occurs and ending 180 days after that date). The first three violations in that period are not assessed a mandatory minimum penalty.

Term	Definition
Units	mL/L = milliliters per liter µg/L = micrograms per liter MPN/100 mL = Most Probable Number per 100 milliliters
N/A	Not Applicable
CIWQS	California Integrated Water Quality System database used by the Water Boards to manage violation and enforcement activities, as well as other data types relevant to water quality protection.
Violation Number	Identification number assigned to a violation in CIWQS.
Violation Date	Date that a violation actually occurred, with the exception that for some violation types, such as a monthly average, the last day of the reporting period is used. If the occurrence date is unknown, the date used is the day the violation was first discovered by staff, the Discharger, or a third party.
Pollutant Types: Group 1 & 2	Groups of pollutants defined in the State Water Resources Control Board Water Quality Enforcement Policy. Also referred to as Category 1 or CAT1 and Category 2 or CAT2, respectively.

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California Department of Corrections and Rehabilitation
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Term	Definition
Pollutant Type: Other	“Other” refers to “Other Effluent Violation”. Group of pollutants other than those included in Group 1 or 2.

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