



California Regional Water Quality Control Board

Central Coast Region



Linda Adams
Secretary for
Environmental
Protection

www.waterboards.ca.gov/centralcoast
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold
Schwarzenegger
Governor

February 21, 2008

CERTIFIED MAIL 7006 0100 0000 1777 6068
RETURN RECEIPT REQUESTED

Warden John Marshall
California Men's Colony
P.O. Box 8101
San Luis Obispo, CA 93409-8101

Dear Mr. Marshall:

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT, CALIFORNIA MEN'S COLONY, SAN LUIS OBISPO COUNTY

Attached is *Administrative Civil Liability Complaint No. R3-2008-0026 in the matter of California Department of Corrections and Rehabilitation, California Men's Colony, San Luis Obispo County*. This Complaint concerns your large sewage spill to Chorro Creek on January 27, 2008.

Unless you waive your right to a public hearing and pay the amount proposed in the Complaint (\$40,000), we plan to present an order to the Regional Water Quality Control Board, Central Coast Region (Water Board) for the amount proposed, at its regularly scheduled meeting on May 9, 2008, at the Water Board hearing room, 895 Aerovista Place, Suite 101, San Luis Obispo, California. At that time, the Water Board will hear public testimony and decide whether to affirm the action of the Assistant Executive Officer as described in the complaint, or refer the matter for judicial civil action

The CMC and any other interested parties may submit written comments regarding this proposed action. Comments and other written submittals for Water Board consideration are **due no later than 5 pm on Friday, March 28, 2008**. Written material received after the due date will not be provided to the Water Board or become part of the record, unless the Board Chair rules that exclusion would create a severe hardship and that no party (including Water Board staff) will be prejudiced by the late submission. The Board Chair will make such a ruling at or before the hearing. Late submissions that consist of evidence (as opposed to policy statements or comments) will generally be deemed prejudicial unless all designated parties (see below) have time to consider the evidence before the meeting

California Environmental Protection Agency

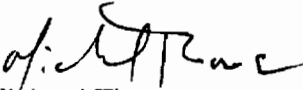
Recycled Paper



Item No. 24 Attachment No. 1
September 4-5, 2008 Meeting
California's Men's Colony (ACL)

Please review the Complaint and procedural information carefully and submit your comments and/or your Waiver of Hearing form and copy of payment by **March 28, 2008**. If you have questions, please contact Harvey Packard at (805) 542-4639 or hpackard@waterboards.ca.gov.

Sincerely,



Michael Thomas
Assistant Executive Officer

Attachment: Administrative Civil Liability Complaint No. R3-2008-0026

cc:

Mr. Rich Lichtenfels
San Luis Obispo County Environmental Health
P. O. Box 1489
San Luis Obispo, CA 93406

Ms. Frances McChesney
Office of Chief Counsel
State Water Resources Control Board
By email

Jorge Leon
Office of Enforcement
State Water Resources Control Board
P. O. Box 100
Sacramento, CA 95812-0100

Jill Baltan
California Dept. of Health Services
850 Marina Bay Parkway, MSG165
Richmond, CA 94804

Keith Carls
KCOY TV
By email

Joey Racano
By email

Eric Greening

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**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R3-2008-0026

IN THE MATTER OF:

**CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
CALIFORNIA MEN'S COLONY
SAN LUIS OBISPO COUNTY**

CALIFORNIA MEN'S COLONY IS HEREBY GIVEN NOTICE THAT:

The California Department of Corrections and Rehabilitation, California Men's Colony (hereafter "CMC" or "Discharger") is alleged to have violated provisions of California State law and an Order of the Regional Water Quality Control Board, Central Coast Region (hereafter "Central Coast Water Board"), for which the Central Coast Water Board may impose civil liability pursuant to California Water Code Section 13385.

Unless the Discharger waives its right to a hearing and pays the recommended civil liability (see instructions below), a public hearing on this matter will be held before the Central Coast Water Board on May 9, 2008, at the Water Board hearing room, 895 Aerovista, San Luis Obispo, California. The Discharger and its authorized representative(s) will have an opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Central Coast Water Board.

An agenda will be mailed to the Discharger separately, not less than ten days before the public hearing date. At the public hearing, the Central Coast Water Board will consider whether to affirm, reject, or modify the proposed administrative civil liability, or whether to refer the matter to the State Attorney General for recovery of judicial civil liability.

ALLEGATIONS

1. The Discharger's wastewater treatment facility, located on Hwy 1, on Camp San Luis Obispo property, north of San Luis Obispo, is subject to Waste Discharge Requirements Order No. R3-2006-0032, NPDES Permit No. CA47856 ("Order") issued by the Central Coast Water Board. The Order prohibits overflow or bypass of wastewater from the Discharger's collection, treatment, or disposal facilities and the subsequent discharge of untreated wastewater.
2. On January 27, 2008, a power failure and failed backup power generator resulted in a 20,000-gallon overflow of untreated wastewater from the Discharger's wastewater treatment facility into Chorro Creek. The Discharger thereby violated the Order and is subject to penalties pursuant to California Water Code Section 13385.
3. **Maximum Civil Liability.** Per Water Code Section 13385(c), the maximum administrative civil liability in this case is \$200,000 ($[\$10,000 \text{ per day} \times 1 \text{ day}] + [(20,000 \text{ gal.} - 1,000 \text{ gal.}) \times \$10 \text{ per gallon}]$).

4. **Minimum Civil Liability.** Water Code Section 13385(e) provides that, at a minimum, civil liability shall be assessed at a level that recovers the economic benefit or savings, if any, derived from the acts that constitute the violations. The Discharger recently completed a multi-million dollar upgrade of wastewater facilities to prevent such violations. The Discharger did not derive any economic benefit or savings from this violation.

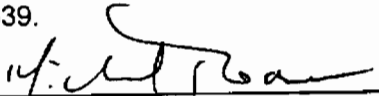
5. **Water Code Section 13385(c) Factors:**

Factor	Consideration
Nature, Circumstances, Extent, and Gravity of the Violations	Large sewage spill to inland surface water tributary to Morro Bay. Sensitive receptors. Occurred during wet weather and high creek flows. The County health department closed Morro Bay to water contact recreation for four days. Sport shellfish harvesting was closed for at least two weeks.
Degree of Culpability	Medium. Backup power generator is regularly tested and was apparently operational until this incident.
Voluntary Cleanup Efforts Undertaken by the Violator	None reported. Discharger minimized spill volume by diverting flow to old wastewater facility.
Susceptibility to Cleanup or Abatement	Low. Spill was washed downstream by high creek flows.
Degree of Toxicity of the Discharge	Low due to high creek flows. Sample results pending.
Prior History of Violations	Discharger has long history of similar violations; however, Discharger has recently made significant facility improvements.
Economic Benefit or Savings Resulting from the Violation	None. See Allegation 4 above.
Ability to Pay	Previous penalties suggest the Discharger is capable of paying proposed penalty.
Other Matters that Justice May Require	Staff costs for responding to violation are \$1200.

PROPOSED CIVIL LIABILITY

1. Upon consideration of all factors required by California Water Code Section 13385, the Assistant Executive Officer recommends the Discharger be assessed civil liability in the amount of **forty-thousand dollars (\$40,000)**.
2. The Central Coast Water Board will hold a public hearing on this matter on **May 9, 2008**, unless the Discharger agrees to waive its right to a public hearing by filling out, signing, and submitting the enclosed "Waiver of Hearing." If the Discharger chooses not to waive its right to a public hearing, the Central Coast Water Board may proceed with the scheduled public hearing and consider testimony received from interested persons during the public hearing and decide whether to affirm, reject, or modify the amount of administrative civil liability proposed by the Assistant Executive Officer. The Central Coast Water Board may also decide to continue the matter to a future hearing or refer the matter to the State Attorney General. The public hearing is scheduled at the regularly scheduled Central Coast Water Board meeting on May 9, 2008, at the Water Board hearing room, 895 Aerovista Place, Suite 101, San Luis Obispo, California. The meeting is scheduled to begin at 8:30 a.m.; however, no specific time has been set for consideration of this item.

If you have questions regarding this matter, please direct them to Harvey Packard at (805) 542-4639.



Michael J. Thomas
Assistant Executive Officer

2-21-08
Date