



# California Regional Water Quality Control Board

## Central Coast Region



Linda Adams  
Secretary for  
Environmental  
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb3>  
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401  
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold Schwarzenegger  
Governor

December 17, 2008

**CERTIFIED MAIL 7004 1350 0003 9876 8999**

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

Dear Warden Marshall:

**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R3-2008-0074, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, CALIFORNIA MEN'S COLONY, SAN LUIS OBISPO COUNTY**

Central Coast Water Board staff proposed Mandatory Minimum Penalty Order No. R3-2008-0054 to the Central Coast Water Board on September 5, 2008. Proposed Order No. R3-2008-0054 would have assessed mandatory minimum penalties for dissolved oxygen, total chlorine residual, total coliform, pH, sulfate, dichlorobromomethane, chlorodibromomethane, and copper. The Water Board did not adopt the proposed Order and directed staff to reevaluate the complaint. Staff proposes to separate the dissolved oxygen, total coliform, pH, sulfate, dichlorobromomethane, chlorodibromomethane, and copper violations from the total chlorine residual violations, which are the subject of this complaint.

I hereby withdraw MMP Complaint No. R3-2008-0054.

Attached is Administrative Civil Liability Complaint No. R3-2008-0074. This Complaint is based on violations of effluent limitations in Waste Discharge Requirements Order No. R3-2006-0032, National Pollutant Discharge Elimination System Permit No. CA0047856, from July 1, 2004, through August 31, 2008. The attached Complaint specifies the occurrence dates and nature of the violations. This Complaint includes penalty assessments for total chlorine residual violations.

Unless you waive your right to a public hearing and pay the amount proposed in the Complaint (\$140,000), we will present an Order to the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) for the amount proposed in the Complaint at the February 6, 2009, Central Coast Water Board meeting to be held at 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.

*California Environmental Protection Agency*



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California Water Code Section 13385(l) allows up to \$77,500 of the penalty amount to be expended on a supplemental environmental project (SEP) in accordance with the State Water Resources Control Board's *Water Quality Enforcement Policy*. You may submit a proposal for one or more SEPs. If you do choose to submit a proposal, please submit it for our consideration no later than **January 12, 2009**. The *Water Quality Enforcement Policy* specifies the criteria a SEP must meet to qualify for funding consideration and may be found at:

[http://www.waterboards.ca.gov/board\\_info/agendas/2008/feb/0219\\_10currentpolicy.doc](http://www.waterboards.ca.gov/board_info/agendas/2008/feb/0219_10currentpolicy.doc). You will also find a number of SEPs listed, as well as other useful information, on our website at: <http://www.swrcb.ca.gov/centralcoast/sep/>.

Please review the Complaint carefully and submit your comments or your **Waiver of Hearing** form and copy of payment, and/or an SEP proposal by **January 12, 2009**. If you have questions, please contact **David LaCaro at (805) 549-3892** or Harvey Packard at (805) 542-4639.

Sincerely,



Michael J. Thomas  
Assistant Executive Officer

Attachments:            1) Mandatory Minimum Penalty Complaint No. R3-2008-0074  
                                 2) Waiver of Hearing Form

cc: California Men's Colony IPL

Chris Swanberg, Staff Counsel  
California Department of Corrections  
and Rehabilitation  
1515 S Street, Room 3145  
Sacramento, CA 95814

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

California Department of Corrections  
and Rehabilitation Headquarters  
300 Capitol Mall, Suite 1850  
Sacramento, CA 95814

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

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

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

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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R3-2008-0074

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 February 8, 2009, 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 Highway 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.
2. Order No. R3-2006-0032 includes the following:

Section IV.A.1.a. - Effluent Limitations Table

Constituent	Units	Effluent Limit		
		Daily Maximum	7-Day Average	Monthly (30-day Average)
Total Chlorine Residual	mg/L	ND <sup>1</sup>	-	-

<sup>1</sup> - ND = less than 0.1 mg/L. Compliance determination for total chlorine residual shall be based on 99% compliance. To determine 99% compliance with the effluent limitation specified above for total chlorine residual, the following conditions shall be satisfied: (1) the total time during which the total chlorine residual values are above 0.1 mg/L (instantaneous maximum value) shall not exceed 7 hours and 26 minutes in any calendar month; (2) no individual excursion from 0.1 mg/L shall exceed 30 minutes; and (3) no individual excursion shall exceed 2 mg/L.

mg/L - milligrams per liter

s.u. - standard units

3. According to monitoring reports submitted by the Discharger from July 1, 2006, to August 31, 2008, the Discharger violated the following effluent limitations in Order No. R3-2006-0032:

**Table 1 – Effluent Limit Violations**

#	Violation Date	CIWQS Violation No.	Constituent	Permit Limit	Reported Value
1	2/15/2007	566486	Chlorine Residual, Total	<sup>1</sup>	>2.2 mg/L
<b>Plant Upgrade (90 - day adjustment period)<sup>2</sup></b>					
2	10/1/2007	698115	Chlorine Residual, Total	<sup>1</sup>	2.54 mg/L
3	10/2/2007	698118	Chlorine Residual, Total	<sup>1</sup>	0.61 mg L
4	10/3/2007	698119	Chlorine Residual, Total	<sup>1</sup>	0.32 mg/L
5	10/7/2007	698120	Chlorine Residual, Total	<sup>1</sup>	0.52 mg/L
6	10/16/2007	698116	Chlorine Residual, Total	<sup>1</sup>	2.92 mg/L
7	10/24/2007	698122	Chlorine Residual, Total	<sup>1</sup>	1.93 mg/L
8	10/25/2007	698123	Chlorine Residual, Total	<sup>1</sup>	0.52 mg/L
9	10/26/2007	698124	Chlorine Residual, Total	<sup>1</sup>	1.02 mg/L
10	11/4/2007	710011	Chlorine Residual, Total	<sup>1</sup>	10.74 mg/L
11	11/14/2007	710012	Chlorine Residual, Total	<sup>1</sup>	20.03 mg/L
12	11/17/2007	710013	Chlorine Residual, Total	<sup>1</sup>	20.03 mg/L
13	12/7/2007	764580	Chlorine Residual, Total	<sup>1</sup>	2.03 mg/L
14	2/7/2008	783758	Chlorine Residual, Total	<sup>1</sup>	1.60 mg/L
15	2/8/2008	783759	Chlorine Residual, Total	<sup>1</sup>	0.45 mg/L
16	2/17/2008	783760	Chlorine Residual, Total	<sup>1</sup>	1.13 mg/L
17	5/19/2008	775625	Chlorine Residual, Total	<sup>1</sup>	1.6 mg/L
18	6/16/2008	764651	Chlorine Residual, Total	<sup>1</sup>	0.52 mg/L
19	6/17/2008	777462	Chlorine Residual, Total	<sup>1</sup>	2.0 mg/L
20	8/21/2008	786556	Chlorine Residual, Total	<sup>1</sup>	4.2 mg/L

<sup>1</sup> - Effluent limitation is identified in Finding No. 8 (above) and Section IV.A.1.a. of Order R3-2006-0032.

<sup>2</sup> - According to Section 13385(j)(1)(D)(i) of the California Water Code, mandatory minimum penalties are not assessed for new or reconstructed wastewater treatment units for a period of 90 days.

CIWQS – California Integrated Water Quality System

mg/L - milligrams per liter

4. The California Men's Colony completed the construction of a new wastewater treatment facility on May 31, 2007. Section 13385 (j)(D)(i) of the California Water Code states that mandatory minimum penalties do not apply to violations occurring during "the operation of a new or reconstructed wastewater treatment unit during a defined period of adjustment of testing, not to exceed 90 days for a wastewater

treatment unit that relies on a biological treatment process.” This Complaint does not propose penalties for violations that occurred between May 31, 2007, and August 29, 2007, which includes the new wastewater treatment facility’s 90-day adjustment period. The 90-day adjustment period is noted in Table 1 above.

#### MINIMUM CIVIL LIABILITY

5. California Water Code Section 13385(h) requires that a mandatory minimum penalty of three thousand dollars (\$3,000) be assessed for each serious violation. Section 13385(h)(2) provides a serious violation occurs if the discharge exceeds the effluent limitations for a Group II pollutant, as specified in Appendix A to section 123.45 of Title 40 Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to section 123.45 of Title 40 Code of Federal Regulations, by 40 percent or more.

California Water Code section 13385(i) requires the Central Coast Water Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in a period of six consecutive months:

- a) Violates a waste discharge requirement effluent limitation;
- b) Fails to file a report pursuant to Section 13260;
- c) Files an incomplete report pursuant to Section 13260; or
- d) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

Central Coast Water Board staff proposed *Mandatory Minimum Penalty Order No. R3-2008-0054* at the September 5, 2008 Water Board meeting. After considering written and oral testimony presented before and at the hearing, the Water Board did not adopt the proposed order and directed staff to reevaluate the complaint. In this complaint and Complaint No. R3-2008-0075, staff separates the total chlorine residual violations from the other violations (i.e., total coliform, dissolved oxygen, pH, copper, sulfate, dichlororomomethane, and chlorodibromomethane). Complaint No. R3-2008-0075 addresses the other violations.

#### MAXIMUM CIVIL LIABILITY

6. California Water Code Section 13385 authorizes the Central Coast Water Board to administratively impose civil liability in an amount not to exceed \$10,000 for each day in which any person violates an NPDES permit. Each violation listed in Table 1 is a violation of the Order No. R3-2006-0032 and is therefore subject to a maximum penalty of \$10,000.

## LIABILITY FACTORS

7. Pursuant to California Water Code Section 13385(e), the Central Coast Water Board must consider the following factors in determining the amount of liability for the total chlorine residual violations:

- Nature, circumstances, extent, and gravity of the violations,
- Whether the discharge is susceptible to cleanup or abatement,
- Degree of toxicity of the discharge,
- Discharger's ability to pay,
- Effect on the Discharger's ability to continue in business,
- Voluntary cleanup efforts undertaken by the Discharger,
- Discharger's prior history of violations,
- Discharger's degree of culpability,
- Economic benefit or savings, if any, resulting from the violation, and
- Other matters that justice may require.

a. **Nature, circumstances, extent, and gravity of the violations:** The Discharger violated WDR Order No. R3-2006-0032 by failing to comply with the total chlorine residual effluent limitation. The 20 violations indicated in Table 1 are instances where the discharger did not comply with the 99% compliance requirements as stated in Finding No. 2 of this complaint. According to the Discharger, many of these total chlorine residual violations occurred as a result of inadequate equipment. More specifically, the operators identified the following deficiencies with the new disinfection system:

1. The facility operators identified a lag time between the dechlorination probe and the sodium bisulfide dosing pump. Disinfected wastewater would be pumped to the dechlorination probe (located in the pump room). The dechlorination probe would sense a particular concentration of chlorine residual and would send a signal to the sodium bisulfide dosing pump in order to dose the adequate amount of sodium bisulfide to dechlorinate. The operator found that it takes approximately 1.5 minutes for disinfected wastewater to be pumped to the dechlorination probe, which increased the potential to release chlorinated wastewater to Chorro Creek. The operators have relocated the dechlorination probe next to the chlorine contact chamber, which has reduced the lag time between the dechlorination probe and sodium bisulfide pump by 30 seconds.
2. The facility operators identified that the dosing pipe from the sodium bisulfide pump was inadequately sized resulting in a lag time to dechlorinate the disinfected wastewater prior to discharge. The operator found that the existing sodium bisulfide dosing pipe was a two inch diameter pipe. Using a dye test method, the operator was able to identify a four minute lag time between the sodium bisulfide pump and the dosing on disinfected wastewater. As a result, the operator decreased the dosing pipe size to  $\frac{3}{4}$

inches in order to decrease the lag time. Currently, the dosing time from the sodium bisulfide pump to the dechlorinating chamber reduced to two minutes.

3. The facility operators identified a lag time between the chlorine probe and the chlorine pumps. The chlorine probe was located in the chlorine contact channel. As chlorine-laden wastewater passed by the probed and information was sent to the chlorine pump to either increase or decrease chlorine dosing. The operator found that the transfer of information from the chlorine probe to the chlorine pump was approximately 15 minutes. As a result, chlorine dosing was inadequate by increasing the amount of chlorine residual in the discharge. The Discharger has since moved the chlorine probe out of the channel and closer to the chlorine dosing mixing well. The operators estimate the response time to be 15 seconds, thus reducing the lag time between the probe and the pump.

Water Board staff believes that a combination of this above deficiencies resulted in various chlorine residual releases. The Discharger's actions to mitigate violations as a result of the aforementioned deficiencies warrant less than the maximum liability.

- b. Discharge susceptibility to cleanup or abatement:** High concentrations of chlorine residual in surface waters are not susceptible to cleanup because dissolved contaminants in such discharges often move rapidly downstream and disperse over extensive areas. Furthermore, degradation of chlorine in nature depends on many factors (i.e., concentration of chlorine discharged, volume of receiving water, photodegradation, bioabsorption, and other factors.).

This consideration is neutral with respect to the maximum liability.

- c. Discharge toxicity:** The discharge of effluent containing chlorine in excess of the allowable effluent limitations can be toxic to fish and other aquatic organisms.

Water Board staff received a telephone call from the CMC staff on August 21, 2008, explaining that the facility exceeded the allowable total chlorine residual effluent limitation in the permit and that the exceedance apparently caused a downstream fish kill. The Department of Fish and Game staff was notified and Mr. Dennis Michniuk, DFG staff biologist, conducted an inspection. Mr. Michniuk documented that stickleback fish were alive on the upstream side of the effluent pipe. However, Mr. Michniuk observed dead fish approximately 300-feet downstream of the effluent pipe. Among the dead fish were four steelhead trout, some stickleback fish, and some crayfish. According to the August monthly self-monitoring report submitted by the discharger, the total chlorine residual concentration released on August 21, 2008, was 4.2 mg/L (Line 20 in Table 1 above). Central Coast Water Board staff believes other total chlorine residual violations identified in Table 1 above 2.0 mg/L (daily maximum effluent limit) may have had deleterious impacts to aquatic life. It is plausible that fish kills have occurred previously as a result of chlorine releases.

If discharged at sufficiently high concentrations and volumes, toxic concentrations of chlorine could travel the entire downstream reach of Chorro Creek and reach Morro Bay. The Morro Bay National Estuary Program and Morro Bay shellfish growers suspect that chlorine from the CMC wastewater treatment facility may be responsible for a shellfish toxicity event that occurred in 2007.

Some violations are more serious than others. Six violations of the twenty total violations identified in the Table 1 (above) were based on a violation of the 99% compliance limitations. More specifically, the six violations were based on the exceedance of the 30 minutes excursion limitation. Therefore, this consideration may warrant less than the maximum liability.

- d. **Discharger's Ability to Pay the Liability and the Effect on the Discharger's Ability to Continue Business:** The facility is owned and operated by the State of California. The discharger's ability to pay is dependant on State funds allocated to the Department of Corrections and Rehabilitation. The discharger is not eligible for state grants or low interest rate loans and does not have the capability to assess utility fees on their users.

However, the discharger's payment of previous penalties suggests it is capable of paying the proposed penalty. Because the Discharger has provided no information upon which the Central Coast Water Board could make a finding that it does not have the ability to pay, or that imposing the maximum penalty would impact its ability to do business, this consideration does not warrant less than the maximum liability.

- e. **Violation history:** Cleanup and Abatement Orders and Time Schedule Order: The discharger has a long history of violations. The discharger currently has various cleanup and abatement orders (Order No. 96-20, No. 98-82, No. 99-38, and No. 05-36) and a time schedule order (Order No. 06-88). The discharger recently upgraded the facility, which has corrected most of the violations and facility deficiencies identified in the enforcement orders.

November 20, 2007 Notice of Violation: Central Coast Water Board staff issued a Notice of Violation (NOV) on November 20, 2007, for deficiencies observed at the newly upgraded facility. The NOV identified deficiencies with the bar screen, grinder pump facility, and the chlorine disinfection system. The discharger, as a result of the NOV, has corrected issues regarding the bar screen and the grinder pump. However, the discharger continues to address the disinfection system.

Sanitary Sewer Overflow Penalty: Most recently, the Central Coast Water Board issued an order in the amount of \$40,000 for a spill of untreated wastewater that occurred in January 2008 (Administrative Civil Liability Order No. R3-2008-0026 issued on September 5, 2008).



Mandatory Minimum Penalties Complaint: In addition to the violations alleged in this complaint, Central Coast Water Board staff is also currently proposing mandatory minimum penalties for other effluent violations of Order No. R3-2006-0032. These violations are alleged in MMP Order No. R3-2008-0075 and include violations of effluent limitations for total coliform, sulfate, dissolved oxygen, pH, chlorodibromomethane, dichlorobromomethane, and copper.

The above consideration does not warrant less than the maximum liability.

- f. **Voluntary cleanup efforts:** The Discharger did not conduct voluntary cleanup efforts in the receiving water. This factor is neutral with respect to liability because there were no voluntary cleanup activities the Discharger could have undertaken once the discharge occurred.
- g. **Degree of culpability:** As the owner of the regulated facility, the Discharger is responsible for compliance. The current provisions of Order No. R3-2006-0032 have been in effect since for the past two permit cycles.

Although Water Board staff believes that the discharger is continually trying to optimize the current disinfection system, the current system is not adequate to prevent the releases of chlorine residual above the effluent limits. The continued use of chlorine for disinfection maintains the potential for receiving water impacts to aquatic life. However, the discharger appears to be making an effort to mitigate releases through daily monitoring, adjustments to the existing system, and, ultimately, conversion to a UV disinfection system.

This consideration may warrant less than the maximum liability.

- h. **Economic benefit or savings:** During the period of violations addressed by this complaint, Water Board staff knows of no significant economic benefit by the Discharger. It could be perceived that the discharger benefited from saving the amount of sodium biosulfate (a dechlorination agent), which resulted in elevated concentrations of chlorine in the discharger's effluent. This perceived saving of sodium biosulfate product could have saved the discharger money. However, most of these violations occurred as a result of malfunctioning dechlorination probes, lag times between the probes and the sodium biosulfite dosing pumps, and other factors. Additionally, Central Coast Water Board staff believes that the discharger did not have any benefit or savings from these identified violations.

Given the above consideration, it is reasonable to conclude that Water Board staff's recommended civil liability recovers the Discharger's perceived economic benefit derived from the alleged violations.

- i. **Other matters as justice may require:** Central Coast Water Board staff spent time preparing and reviewing documents related to this enforcement action. Prior to this complaint, Water Board staff proposed MMP Order No. R3-2008-0054 to the Central Coast Water Board on September 5, 2008. Estimated staff

costs (including Central Coast Water Board technical staff, administrative staff, supervisors, and legal counsel) are \$10,000.

\$125/hour X 80 hours = \$10,000

**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 **one hundred and forty thousand dollars (\$140,000)**.



\_\_\_\_\_  
Michael J. Thomas  
Assistant Executive Officer

12-17-08

\_\_\_\_\_  
Date

PROCEDURAL INFORMATION  
FOR  
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT  
PUBLIC HEARING AND PAYMENT

**WAIVER OF PUBLIC HEARING**

You may waive your right to a public hearing. If you wish to waive your right to a public hearing, a duly authorized person<sup>1</sup> must check the *first* box, sign, and submit the following ***Waiver of the Right to a Public Hearing*** form and pay the penalty amount specified in the Complaint **no later than January 12, 2009 at, 5:00 P.M.** Please follow the payment instructions below.

If you choose to waive your right to a public hearing, and if full payment and a signed *Waiver of the Right to a Public Hearing* form are received before the hearing, the hearing will not be held, and the violation will be settled. If full payment and a signed *Waiver of the Right to a Public Hearing* form are not received, the matter will be placed on the Central Coast Water Board's agenda for a hearing as stated below.

If you do not waive your right to a public hearing, the Assistant Executive Officer will present an Order to the Central Coast Water Board for the amount proposed in this Complaint at the Central Coast Water Board meeting on February 6, 2009, at the Water Board hearing room, 895 Aerovista Place, Suite 101, San Luis Obispo, California. The Central Coast Water Board will proceed with the scheduled hearing, consider testimony received from interested persons during the hearing, and decide whether to accept the amount of the civil liability proposed by the Assistant Executive Officer, or to increase or decrease the amount. If the Water Board adopts an order, payment of the civil liability to the State Water Resources Control Board will be due and payable no later than March 6, 2009, in accordance with the order. The Central Coast Water Board may also decide to continue the matter to a future hearing or refer it to the State Attorney General. The meeting is scheduled to begin at 8:30 A.M.; however, no specific time has been set for consideration of the order.

**PAYMENT OF ADMINISTRATIVE CIVIL LIABILITY**

**No later than January 12, 2009**, please make your check payable to State Water Resources Control Board, and note "ACL Complaint No. R3-2008-0074" on the check. Please mail the check and signed waiver form to *SWRCB Accounting, Attn: Enforcement, P.O. Box 100, Sacramento, CA 95812-0100*.

Please also mail copies of the check and signed waiver form to *Regional Water Quality Control Board, Attn: Harvey Packard, 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401*.

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<sup>1</sup> A duly authorized person is defined as a principal executive officer of at least the level of vice president in a corporation, a general partner or the proprietor in a partnership or sole proprietorship, a principal executive officer or ranking elected official in a public agency, or a duly authorized representative.

## REQUEST FOR HEARING DATE EXTENSION FOR SUPPLEMENTAL ENVIRONMENTAL PROJECT

If you would like to propose a Supplemental Environmental Project, please contact Water Board staff as soon as possible. If staff determines your proposed Supplemental Environmental Project meets applicable requirements, you can elect to settle this matter without a hearing. In some cases, finalizing a settlement that includes a Supplemental Environmental Project takes several weeks or months.

Unless waived, California Water Code Section 13323(b) requires the Water Board to hold a hearing on Complaint No. R3-2008-0074 within 90 days after the date of service of the complaint. Before any hearing date extension is granted, you must waive the 90-day requirement. In order to request an extension, a duly authorized person must check the *second* box, sign, and submit the following ***Waiver of the Right to a Public Hearing*** form **no later than January 12, 2009 at 5:00 P.M.**

A waiver and request for extension do not guarantee that the Water Board will grant the extension request or that you will be able to reach a settlement agreement. In many cases, a settlement agreement including a Supplemental Environmental Project can easily be completed within 90 days and no extension is necessary. The Water Board will set a new hearing date if a settlement agreement is not finalized in a timeframe acceptable to Water Board staff.

The due date for written comments is not automatically extended when the hearing date is changed.

**WAIVER OF THE RIGHT TO A HEARING AND/OR WAIVER OF TIME FOR HEARING**

By signing below, I acknowledge that I have read and understand the PROCEDURAL INFORMATION FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT, PUBLIC HEARING AND PAYMENT that was attached to this waiver form.

Check one of the following boxes:

[ ] By checking this box, I agree to waive California Men's Colony's right to a hearing before the Central Coast Water Board with regard to the violations alleged in Complaint No. R3-2008-0074. Also, I agree to remit payment for the civil liability proposed. I understand that I am giving up the California Men's Colony's right to argue against the allegations made by the Assistant Executive Officer in this Complaint, and against the imposition or amount of proposed civil liability. [Check this box if the California Men's Colony will pay the full amount of proposed liability without a hearing, and initial here: \_\_\_\_\_]

[ ] By checking this box, I agree to waive the 90-day requirement of California Water Code Section 13323(b). I understand this means the Water Board may hold a hearing more than 90 days after the date of service as long as I receive at least ten calendar days' notice of the new hearing date. I understand that the California Men's Colony's waiver of the 90-day requirement does not extend the original due date for written comments, unless the Water Board also extends that due date. I understand that the Water Board may deny the request for extension. [Check this box if the California Men's Colony requests an extension of the hearing date for any reason, including an extension to discuss settlement and/or Supplemental Environmental Projects with Water Board staff. After checking the box, initial here: \_\_\_\_\_].

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title/Position

\_\_\_\_\_  
Date

\* A duly authorized person must sign the waiver. A duly authorized person is defined as a principal executive officer of at least the level of vice president in a corporation, a general partner or the proprietor in a partnership, a principal executive officer or ranking elected official in a public agency, or a representative authorized in writing by a vice president or higher ranking corporate officer, general partner, principal executive officer or ranking elected official.