

ATTACHMENT 1

Administrative Civil Liability Complaint R3-2015-0011

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

In the matter of:

Carpinteria Sanitary District

WDID: 3 420101001

**COMPLAINT NO. R3-2015-0011
FOR
ADMINISTRATIVE CIVIL LIABILITY**

**Violations of
NPDES Permit No. CA 0047364
and
Order No. R3-2011-0003**

Hearing: May 28-29, 2015

CARPINTERIA SANITARY DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. Carpinteria Sanitary District (Discharger) has violated provisions of law for which the California Central Coast Water Quality Control Board, Central Coast Region (Central Coast Water Board) may impose civil liability pursuant to section 13385 of the California Water Code (CWC).
2. This Administrative Civil Liability Complaint (ACLC or Complaint) is issued under authority of CWC sections 13323 and 13385.
3. A hearing concerning this Complaint will be held before the Central Coast Water Board within ninety (90) days of the date of issuance of this Complaint, unless, pursuant to CWC §13323, the Discharger waives its right to a hearing. Waiver procedures are specified in the attached Waiver Form. The hearing on this matter is scheduled for the Central Coast Water Board's regular meeting on May 28-29, 2015.
4. If a hearing is held on this matter, 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 Attorney General for recovery of judicial civil liability. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this ACLC through hearing.
5. The Discharger owns and operates a wastewater collection, treatment, and disposal system, which provides sewer service for the City of Carpinteria and portions of Santa Barbara County. The treatment system consists of pretreatment, screening, grit removal, primary sedimentation, aerated activated sludge tanks, secondary sedimentation, chlorination, and dechlorination. Treated wastewater is discharged from Discharge Point No. 001 (as described in Order No. R3-2011-0003) to the Pacific Ocean, a water of the United States.

6. On April 16, 2010, the Discharger filed its most recent Report of Waste Discharge for National Pollutant Discharge Elimination System (NPDES) permit number CA 0047364.
7. On February 3, 2011, the Central Coast Water Board adopted Waste Discharge Requirements Order No. R3-2011-0003, NPDES CA-0047364.
8. In July 2013, a former employee of the Discharger contacted County of Santa Barbara District Attorney Investigator Chris Clement regarding the Discharger and alleged unreported or underreported spills. Investigator Clement forwarded the complaint to Central Coast Water Board staff, who contacted the whistleblower to speak with him about his allegations.
9. Harvey Packard, the former Enforcement Coordinator for the Central Coast Water Board and Julie Macedo, Senior Staff Counsel for the State Water Resources Control Board Office of Enforcement, along with Investigator Clement, spoke with the whistleblower regarding his allegations.
10. The whistleblower's allegations are not at issue in this matter. While they did bring the matter to the attention of the Central Coast Water Board, the whistleblower was not promised any action would be taken against the Discharger. The whistleblower appeared credible, but the evidence regarding past un- or underreported discharges was difficult to confirm. Instead, his allegations and a discharge of horizontal drilling mud by Discharger (July 2012) caused Central Coast Water Board staff to review Discharger's violation history in the California Integrated Water Quality System (CIWQS) database.
11. On December 27, 2011, the Discharger exceeded three effluent limitations for settleable solids; the daily maximum, the 7-day average and the 30-day average. Settleable solids is a Group 1 pollutant, for which a violation is serious and will lead to a mandatory minimum penalty (MMP) of no less than \$3,000 when the limit is exceeded by 40% or more. The Discharger exceeded each of the three permit effluent limits by 40 percent or more and is therefore subject to three MMPs.
12. The Discharger had a significant discharge of non-chlorinated (i.e., non-disinfected) effluent to the Pacific Ocean on October 3, 2012. The Discharger self-reported that it discharged 281,250 gallons of "non-chlorinated" wastewater when its disinfection system failed.
13. On January 3, 2013, Discharger exceeded the permitted chlorine total residual instantaneous maximum effluent limitation. Chlorine total residual is a Group 2 pollutant, for which a violation is serious and will lead to an MMP of no less than \$3,000 when the limit is exceeded by 20 percent or more. Discharger exceeded the permit effluent limitation by 20 percent or more and is therefore subject to an MMP.

14. On January 7, 2013, Discharger exceeded the permitted chlorine total residual instantaneous maximum effluent limitation by 20 percent or more and is therefore subject to an MMP. Attachment B to this Complaint, incorporated by this reference, shows the MMP violations.
15. On October 29, 2013, investigators from the State Water Resources Control Board, acting in cooperation with the Central Coast Water Board¹, inspected the Carpinteria Sanitary District facility. The scope of the inspection was to inquire about the accuracy of the whistleblower's allegations and the cause and any corrective actions resulting from the 2012 ocean discharge and the MMP violations.
16. On December 10, 2013, the Assistant Executive Officer of the Central Coast Water Board issued the Discharger a Notice of Violation (NOV) and CWC section 13267 Order seeking information regarding discharges and effluent violations in 2011-2013.
17. The Discharger responded to the 13267 Order on January 27, 2014.
18. On or about April 4, 2014, representatives and counsel for Discharger met with representatives and counsel for the Central Coast Water Board Prosecution Team to discuss the Discharger's Section 13267 response and possible enforcement.
19. On or about April 21, 2014, the Prosecution Team received additional documentation needed regarding the October 2012 discharge.
20. Over the next several months, the Prosecution Team and the Discharger attempted to resolve the matter informally. When settlement discussions did not yield a resolution, this Complaint followed.

ALLEGED VIOLATIONS

21. The Federal Clean Water Act (33 U.S.C. §1311) prohibits the discharge of pollutants from a point source to waters of the United States, unless authorized by a NPDES Permit.
22. CWC §13243 states that the Central Coast Water Board may specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted. The Central Coast Water Board implements this section of the CWC by adopting and implementing the Water Quality Control Plan for the Central Coastal Basin (Basin Plan). The Basin Plan establishes the beneficial uses (Chapter 2) and water quality objectives (Chapter 3) for surface waters for the Central Coast Region, which must be met and maintained to protect those uses.

¹ Members of the Central Coast Water Board and State Water Resources Control Board are collectively identified as the Prosecution Team, and more particularly identified in the Hearing Procedures [Proposed] that accompany this Complaint for Administrative Civil Liability.

23. CWC §13376 states, in part, “Any person discharging or proposing to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state... shall file a report of the discharge in compliance with the procedures set forth in Section 13260...” and “The discharge of pollutants... by any person except as authorized by waste discharge requirements ... is prohibited.”
24. Section 13385 of the CWC includes provisions for assessing administrative civil liability for discharges of wastes to surface waters in violation of the federal Clean Water Act. The discharge incident described above was to surface waters of the United States for which liability can be assessed in accordance with Section 13385 of the CWC. CWC §13385(c) states, in part, that the Central Coast Board may impose civil liability administratively for noncompliance with CWC §13376 on a daily basis at a maximum of ten thousand dollars (\$10,000) for each day in which the violation occurs in accordance with CWC §13385(c)(1); and where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged, but not cleaned up, exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharge, but not cleaned up, exceeds 1,000 gallons; or both, CWC §13385(c)(2).
25. The Discharger had a significant discharge of non-chlorinated effluent to the Pacific Ocean on October 3, 2012. The Discharger self-reported that it discharged 281,250 gallons of “non-chlorinated” wastewater when its disinfection system failed. This is a violation of Prohibition III.B of NPDES Permit No. CA00447364, Order No. R3-2011-0003, which provides in pertinent part that, “Discharge of any waste in any manner other than as described by this Order is prohibited.”
26. The October 3, 2012 discharge is also a violation of the Standard Provisions of the Discharger’s NPDES permit, which provide, in pertinent part:

The Discharger shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this Order that has a reasonable likelihood of adversely affecting human health or the environment.

And:

Safeguards shall be provided to assure maximal compliance with all terms and conditions of this permit. Safeguards shall include preventative and contingency plans and may also include alternative power sources, stand-by generators, retention capacity, operating procedures, or other precautions. ...

Attachment D, D-1 C. Duty to Mitigate and D-11, B.9, Central Coast Standard Provisions, respectively.

27. While the Discharger originally reported that the October 3, 2012 discharge was 281,250 gallons, and claimed in its 13267 response that it was approximately 230,000 gallons, but this estimate was deemed unreliable because of the method of calculation, and the availability of flow data during the discharge event. Using effluent data from the Discharger's Supervisory Control and Data Acquisition (SCADA) system, the Prosecution Team's calculation of the discharge volume, was recalculated at 297,896 gallons.
28. The Discharger also failed to sample, pursuant to Provision VIII.A.2 of the Monitoring and Reporting Program of Order No. R3-2011-0003 (Attachment E), which provides in pertinent part:

The Discharger **shall monitor** for total coliform, fecal coliforms, and enterococcus at receiving water sampling stations RSW-F and RSW-G as identified in MRP section II above, in addition to three shore sampling stations approved by the Executive Officer, for seven days after loss of disinfection.

(emphasis added). This failure to sample is an additional violation of Discharger's permit, but is not included in the recommended administrative liability. The Discharger spoke with Central Coast Water Board permitting staff and was allegedly told not to sample after the October 3, 2012 discharge. However, the Discharger is responsible for compliance with the terms of its permit despite unauthorized oral directives to the contrary.

29. The October 3, 2012 discharge is subject to a discretionary penalty. CWC §13385(e) specifies factors that the Central Coast Water Board shall consider in establishing the amount of civil liability. The Water Quality Enforcement Policy (hereinafter "Enforcement Policy") adopted by the State Water Resources Control Board on November 19, 2009, and approved by the Office of Administrative Law on May 20, 2010, establishes a methodology for assessing administrative civil liability and addresses the factors in CWC §13385(e). Attachment A, incorporated herein and made a part of this ACLC by reference, presents the civil liability assessment derived from the use of the penalty methodology in the Enforcement Policy.

The policy can be found at:

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf

30. Discretionary penalties and the Enforcement Policy allow for the recovery of staff costs. Attachment A, incorporated by reference, provides a summary of staff costs incurred to date. Staff costs will continue to accrue up to and through hearing.
31. An analysis of the Discharger's ability to pay indicates that the Discharger's published budget for its fiscal year that ended in 2010 (the most recent year available) indicated a net surplus of funds in its Enterprise Fund. It is not

anticipated that the proposed liability would cause a financial hardship for the Discharger. The burden of proof now shifts to the Discharger to indicate that the recommended liability should be reduced based on an inability to pay.

32. Discharger's effluent limitation violations are subject to non-discretionary MMPs. CWC section 13385, subdivision (h)(1) requires the Central Coast Water Board to assess an MMP of three thousand dollars (\$3,000) for each serious violation.
33. CWC section 13385, subdivision (h)(2) states, in part, the following: "For the purpose of this section, a 'serious violation' means any waste discharge that violates the effluent limitations ... for a Group II pollutant, as specified in Appendix A to section 123.45 of Title 40 of the 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 of the Code of Federal Regulations, by 40 percent or more." Settleable solids is a Group 1 pollutant, and chlorine total residual is a Group 2 pollutant.

MINIMUM LIABILITY FOR ALL VIOLATIONS

34. The Enforcement Policy requires that the minimum liability be compared to the economic benefit, and that the recommended penalty must be at least 10 percent higher than the economic benefit so that liabilities are not construed as the cost of doing business. The economic benefit in this instance is \$25,534, which represents the delayed and avoided costs of installing an alarm and avoided sampling (please refer to Attachment A). The minimum liability for the discretionary enforcement related to the October 3, 2012 discharge exceeds this amount by more than 10%, which complies with the Enforcement Policy requirement. The minimum liability for the October 3, 2012 discharger would therefore be \$28,087.40.
35. The 5 (five) MMP violations must be assessed according to CWC 13385(h) for \$3,000 each, for a total of \$15,000.
36. The total minimum liability is therefore \$43,087.40 [\$28,087.40 + \$15,000] for both the discretionary penalties and the MMPs.

MAXIMUM LIABILITY FOR THE 13385 DISCHARGE

37. Pursuant to CWC section 13385, subdivision (a), any person who violates Water Code section 13376 is subject to administrative civil liability pursuant to Water Code section 13385, subdivision (c), in an amount not to exceed the sum of both of the following: (1) ten thousand dollars (\$10,000) for each day in which the violation occurs and (2) where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional

liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

38. The alleged violations, set forth in full in the accompanying Attachment A, constitute violations subject to Water Code section 13385. The maximum liability that the Central Coast Water Board may assess pursuant to Water Code section 13385, subdivision (c) is \$2,978,960, based on a volume of 297,896 gallons plus \$10,000 per day.
39. MMP violations are usually charged \$3,000 per violation, but can be treated as discretionary violations and penalized up to \$10,000 per occurrence. The \$15,000 MMP liability could therefore be increased to \$50,000.
40. The total maximum liability is therefore \$3,018,960 for both the discharge and effluent violations.

PROPOSED LIABILITY

23. Pursuant to CWC section 13385, subdivision (e), and the Enforcement Policy and as described in greater detail in Attachment A, the Prosecution Team has considered the factors in determining the amount of the recommended civil liability.
25. Based on consideration of the above facts, the applicable law, and after applying the penalty calculation methodology in section VI of the Enforcement Policy, it is recommended that the Central Coast Water Board impose civil liability against Discharger in the amount of **\$96,775** [~~**\$81,775**~~ for the October 3, 2012 discharge (see Attachment A) and **\$15,000** (see Attachment B) for the MMPs] for the violations alleged herein.

Dated this 2nd day of March, 2015.

MICHAEL THOMAS,
Assistant Executive Officer

Signed pursuant to the authority delegated
by the Executive Officer to the Assistant
Executive Officer.

Attachment A: Prosecution Team's Penalty Methodology Recommendations
Attachment B: MMPs – Effluent Limitation Violations
Attachment C: Waiver Form



Central Coast Regional Water Quality Control Board

March 2, 2015

**VIA ELECTRONIC AND CERTIFIED
MAIL NO. 7014 2120 0003 7566 7470
RETURN RECEIPT REQUESTED**

Craig Murray, General Manager
Carpinteria Sanitary District
5300 Sixth Street
Carpinteria, CA 93013
craigm@carpsan.com

ENFORCEMENT PROGRAM: TRANSMITTAL OF ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R3-2015-0011 TO CARPINTERIA SANITARY DISTRICT, COUNTY OF SANTA BARBARA, PERMIT NO. CA 0047364, WDID NO. 3 420101001

Dear Mr. Murray:

The Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) Prosecution Team hereby issues Administrative Civil Liability Complaint No. R3-2015-0011. The Complaint alleges that the Carpinteria Sanitary District has violated its NPDES permit and Water Code Section 13385 for an unpermitted discharge on October 3, 2012 for which a discretionary penalty may be imposed under the Water Code, and violated effluent limitations for which mandatory minimum penalties must be assessed. The Complaint recommends a penalty amount of \$96,775. The Complaint is enclosed, along with a Waiver Form, and a Hearing Procedure that sets forth important requirements and deadlines for participation in the hearing. Additionally, a Fact Sheet describing the Complaint process is provided for your convenience. The Fact Sheet describes the Complaint process and explains what you can expect and your obligations as the process proceeds. **Please read each document carefully. This Complaint may result in the issuance of an order by the Central Coast Water Board requiring that you pay a penalty.**

If you have questions about the Complaint or the enclosed documents, please contact Thea Tryon, Central Coast Water Quality Control Board Enforcement Coordinator at thea.tryon@waterboards.ca.gov or (805) 542-4776 or Julie Macedo, Senior Staff Counsel, at julie.macedo@waterboards.ca.gov or (916) 323-6847.

Sincerely,

Michael J. Thomas
Assistant Executive Officer
Central Coast Water Board Prosecution Team

- Enclosures:
1. Administrative Civil Liability Complaint No. R3-2015-0011, with attachments
 2. Waiver Form
 3. Hearing Procedures [Proposed by Prosecution Team]
 4. ACL Fact Sheet

(cc's on following page)

cc: (Via e-mail)

William Carter
Counsel for Carpinteria Sanitary District
w.carter@mpglaw.com

Ken Harris
Executive Officer
Ken.Harris@waterboards.ca.gov

Tamarin Austin
Advisory Team
Tamarin.Austin@waterboards.ca.gov

NOTICE OF PUBLIC HEARING
TO CONSIDER ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

NO. R3-2015-0011
ISSUED TO

Carpinteria Sanitary District

NOTICE IS HEREBY GIVEN THAT A HEARING WILL BE HELD
BEFORE THE REGIONAL WATER QUALITY CONTROL BOARD,
CENTRAL COAST REGION, ON **May 29, 2015**

Background

On March 2, 2015, the Assistant Executive Officer of the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code Section 13385 (CWC) against the Carpinteria Sanitary District (Discharger) alleging that it has violated CWC Section 13385 by failing to comply with provisions of Section 301 of the Federal Water Pollution Control Act (33 U.S.C. § 1311) (Clean Water Act), Central Coast Water Board Order No. R3-2011-0003, NPDES Permit No. CA0047364, as described in the administrative civil liability complaint filed herewith. The Complaint proposes that administrative civil liability in the amount of \$96,775 be imposed as authorized by CWC Sections 13385 et seq. Unless the Discharger pays the proposed liability, a hearing will be held before the Central Coast Water Board during its meeting of **May 29, 2015**.

Purpose of Hearing

The purpose of the hearing is to receive relevant evidence and testimony regarding the proposed ACL Complaint. At the hearing, the Central Coast Water Board will consider whether to adopt, modify, or reject the proposed assessment, or whether to refer the matter to the Attorney General's Office to seek recovery of judicial civil liability. If it adopts an assessment, the Central Coast Water Board will issue an Administrative Civil Liability Order.

The public hearing on **May 29, 2015**, will commence no earlier than 9 a.m. or as soon thereafter as practical, or as announced in the Central Coast Water Board meeting agenda. The meeting will be held at the Water Board office located at 895 Aerovista Place, Suite 101, in San Luis Obispo, CA 93401. An agenda for the meeting will be issued at least ten days before the meeting and will be posted on the Central Coast Water Board's web page at:

www.waterboards.ca.gov/centralcoast .

Hearing Procedures

A copy of the procedures governing an adjudicatory hearing before the Central Coast Water Board may be found at Title 23 of the California Code of Regulations, § 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. Except as provided in Title 23 of the California Code of Regulations (CCR), § 648(b), Chapter 5 of the Administrative Procedures Act (commencing with § 11500 of the Government Code) does not apply to adjudicatory hearings before the Central Coast Water Board. This Notice provides additional requirements and deadlines related to the proceeding. THIS NOTICE MAY BE AMENDED BY THE ADVISORY STAFF AS NECESSARY. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY. Any objections to the procedure set forth in this Notice must be submitted to Tamarin Austin at the address indicated below by **March 25, 2015**.

Hearing Participation

Participants in this proceeding are designated as either “parties” or “interested persons.” Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Central Coast Water Board, staff or others, at the discretion of the Water Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Central Coast Water Board Prosecution Staff
- (2) Carpinteria Sanitary District

Contacts

Advisory Staff:

Tamarin Austin, Esq.
State Water Resources Control Board
Office of Chief Counsel
P.O. Box 100
Sacramento, CA 95812
(916) 341-5161
Tamarin.Austin@waterboards.ca.gov

Ken Harris
Executive Officer
RWQCB, Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
Ken.Harris@waterboards.ca.gov

Lisa McCann
Manager, Watershed Planning and Protection Section
RWQCB, Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
Lisa.McCann@waterboards.ca.gov

Jon Rokke
Water Resources Control Engineer
RWQCB, Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
Jon.Rokke@waterboards.ca.gov

Prosecution Staff:

Michael Thomas
Assistant Executive Officer
RWQCB, Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
Michael.Thomas@waterboards.ca.gov

Todd Stanley
RWQCB, Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
Todd.Stanley@waterboards.ca.gov

David Boyers, Esq.
Julie Macedo, Esq.
State Water Resources Control Board
Office of Enforcement
P.O. Box 100
Sacramento, CA 95812
(916) 341-5276 (DB) (916) 341-5891
(916) 323-6847 (JM);
David.Boyers@waterboards.ca.gov
Julie.Macedo@waterboards.ca.gov

Dr. Matthew Buffleben
State Water Resources Control Board
Office of Enforcement
P.O. Box 100
Sacramento, CA 95812
Matthew.buffleben@waterboards.ca.gov

Leo Sarmiento
State Water Resources Control Board
Office of Enforcement
P.O. Box 100
Sacramento, CA 95812
(916) 327-8043
Leo.Sarmiento@waterboards.ca.gov

Jim Fischer
State Water Resources Control Board
Office of Enforcement
P.O. Box 100
Sacramento, CA 95812
(916) 341-5548
Jim.Fischer@waterboards.ca.gov

Harvey Packard
RWQCB, Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
(805) 542-4639
Harvey.Packard@waterboards.ca.gov

Thea Tryon
RWQCB, Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
(805) 542-4776
Thea.Tryon@waterboards.ca.gov

Discharger:

Counsel:

William Carter
Musick, Peeler & Garrett, LLP
One Wilshire Blvd., Suite 2000
Los Angeles, CA 90017-3383
(213) 629-7863
w.carter@mpglaw.com

Anthony Trembley
Musick, Peeler & Garrett, LLP
2801 townsgate Road, Suite 200
Westlake Village, CA 91361
(805) 418-3123
a.trembley@mpglaw.com

Craig Murray
General Manager
Carpinteria Sanitary District
5300 Sixth Street
Carpinteria, CA 93013
craigm@carpsan.com

Mark Bennett
Operations Manager
Carpinteria Sanitary District
5300 Sixth Street
Carpinteria, CA 93013
markb@carpsan.com

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Central Coast Water Board (Prosecution Staff) have been separated from those who will provide advice to the Water Board (Advisory Staff). Members of the Advisory Staff are: Tamarin Austin, Senior Staff Counsel, Ken Harris, Executive Officer, Lisa McCann, Environmental Program Manager, and Jon Rokke, Water Resource Control Engineer. Members of the Prosecution Staff are: David Boyers, Assistant Chief Counsel, Julie Macedo, Senior Staff Counsel, Michael Thomas, Assistant Executive Officer, Todd Stanley, Harvey Packard, Matthew Buffleben, Leo Sarmiento, Jim Fischer and Thea Tryon.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in *ex parte* communications regarding this matter with members of the Advisory Staff or members of the Central Coast Water Board. An *ex parte* contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the ACL Complaint between a member of a designated party or interested party on the one hand, and a Central Coast Water Board member or an Advisory Staff member on the other hand, unless the communication is copied to all other designated and interested parties (if written) or made at a proceeding open to all other parties and interested persons (if verbal). Communications regarding non-controversial procedural matters are not *ex parte* contacts and are not restricted. Communications among the designated and interested parties themselves are not *ex parte* contacts.

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party, and not already listed above, shall request party status by submitting a request in writing (with copies to the designated parties) no later than 5 p.m. on **March 13, 2015**, to Tamarin Austin, State Water Resources Control Board, P.O. Box 100, Sacramento, CA, 95812. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Central Coast Water Board affect the person) and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be submitted by 5 p.m. on **March 27, 2015**. The parties will be notified by 5 p.m. on **April 10, 2015**, as to whether the request has been granted or denied.

Hearing Time limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have 45 minutes to testify, present evidence, and cross-examine witnesses, and 5 minutes for closing statements; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is **received no later than 20 days prior to the hearing, by 5 p.m.** Additional time may be provided at the discretion of the Advisory Team (in advance of the hearing) or hearing officer (during the hearing) upon a showing that additional time is necessary.

Written Evidence, Exhibits and Policy Statements

Designated parties shall submit in writing one paper copy and an electronic file (e.g., pdf via email or CD) of the following information to Tamarin Austin, at the above listed address and 9 paper copies and an electronic file to Ken Harris, Executive Officer, at the above listed addresses, no later than 5 p.m. as described herein:

1. All documentary evidence and exhibits proposed to be offered at the hearing.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness's proposed testimony, and the qualifications of each expert witness.
4. If the Discharger intends to argue an inability to pay the civil liability proposed in the Complaint (or an increased or decreased amount as may be imposed by the Regional Water Board), the Discharger should submit supporting evidence as set forth in the "ACL Fact Sheet" under "Factors that must be considered by the Board."

For the Prosecution Team's Initial Production: no later than 5 p.m. on **April 15, 2015**. For the Discharger and each Designated Party's Evidentiary Submission, no later than 5 p.m. on **May 1, 2015**. For the Prosecution's Rebuttal Submission, no later than 5 p.m. on **May 13, 2015**. For every evidentiary deadline, each designated party shall send one electronic copy of the above materials to each of the other designated parties at the address or addresses provided above by 5 p.m. on the deadline described above.

Interested persons are encouraged to submit one (1) copy of non-evidentiary policy statements by the start of the hearing. There is no requirement to submit policy statements in order to speak at the hearing.

In accordance with Title 23, CCR, § 648.4, the Central Coast Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Central Coast Water Board may exclude evidence and testimony that is not submitted in accordance with this Hearing Procedure. Excluded evidence and testimony will not be considered by the Central Coast Water Board and will not be included in the administrative record for this proceeding. PowerPoint and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team at or before the hearing for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Evidentiary Objections

A designated party objecting to evidence proposed by another party must submit a written objection by 5 p.m. on **May 18, 2015**, to Tamarin Austin, State Water Resources Control Board, P.O. Box 100, Sacramento, CA, 95812, and in electronic format to tamarin.austin@waterboards.ca.gov and a copy to all other designated parties. The Advisory Staff will notify the parties about further action to be taken on such objections.

Evidentiary Documents and File

The complaint and related evidentiary documents are on file and may be inspected or copied at the Central Coast Water Board's office. These documents shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the hearing officer. Many of these documents are also posted on the Central Coast Water Board's website. Although the website is updated regularly, to assure access to the latest information, you may contact the Prosecution Staff.

Questions

Questions concerning this proceeding may be addressed to Tamarin Austin, State Water Resources Control Board, P.O. Box 100, Sacramento, CA, 95812; tel. (916) 341-5171, or by electronic mail, as indicated above.

IMPORTANT DEADLINES

March 2, 2015	ACLC and Proposed Hearing Procedures Issued by Prosecution Team
March 11, 2015	Objections due on draft Hearing Notice
March 13, 2015	Deadline for submission of request for designated party status
March 20, 2015	Advisory Team issues Final Hearing Procedures
March 25, 2015	Objections due on final Hearing Procedures
March 27, 2015	Deadline for opposition to request for designated party status.
April 3, 2015	Discharger's Deadline to submit waiver to right for hearing.

April 10, 2015	Advisory Team issues decision on requests for designated party status, if any.
April 15, 2015:	Prosecution Team's Deadline for submission of evidence and legal argument.
May 1, 2015:	Discharger's Deadline for submission of evidence and legal argument.
May 6, 2015	Interested parties' deadline for submission of non-evidentiary policy statements.
May 13, 2015	Prosecution Team's deadline for submission of rebuttal evidence and legal argument.
May 18, 2015	Deadline for submission of evidentiary objections
May 26, 2015	Rulings on evidentiary objections, if any
May 29, 2015	Hearing Date

Ken Harris,
Executive Officer

March 19, 2015

DATE