



Central Coast Regional Water Quality Control Board

September 26, 2023

Danny Samuel
Warden
California Department of Corrections
and Rehabilitation
P.O. Box 8101
San Luis Obispo, CA 93409-8101
Email: danny.samuel@cdcr.ca.gov

**Via Electronic Mail and Certified Mail
No. 7022 3330 0002 1258 8167**

Dear Mr. Samuel:

ENFORCEMENT PROGRAM: EXPEDITED PAYMENT LETTER (EPL) NO. R3-2023-0043, 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. R3-2023-0043 (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 January 4, 2023, through March 31, 2023, as shown in the attached Exhibit A, Notice of Violation. Central Coast Water Board staff publicly noticed the Order from August 14, 2023, through September 17, 2023, 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 **no later than October 26, 2023**, as follows¹:

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. R3-2023-0043” on the check, and mailed to:
 - a. Attn: ACL Payment
SWRCB Accounting Office
P.O. Box 1888
Sacramento, CA 95812-1888
2. A copy of the above payment emailed to Todd Stanley at todd.stanley@waterboards.ca.gov or mailed to:
 - a. 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] typically mails invoices within five business days after orders are issued, but delays are possible. If the CDCR does not receive an invoice within 10 business days after the date of this transmittal letter, Central Coast Water Board staff advises the CDCR to proceed with making the payment to avoid being late. Similarly, the CDCR may simply elect to make its payment before receiving an invoice. **In either case, it is critical that the CDCR’s check refers to the Order number as instructed in Item #1 above.** If the CDCR elects to pay before receiving the invoice, Central Coast Water Board staff advises the CDCR to contact the Fee Branch to confirm that the payment is posted correctly.

The CDCR also has the option to make the payment to the State Water Pollution Cleanup and Abatement Account by online electronic fund transfer (without surcharge) or credit card (with small surcharge) but must first wait to receive the above invoice because the invoice number is needed for the transaction. After receiving the invoice, the CDCR may then go to [the Fee Branch’s “Make a Payment” website](#) for guidance on the available payment options.

Payment will conclude the Central Coast Water Board’s enforcement action for violations identified in Expedited Payment Letter No. R3-2023-0043, dated May 16, 2023.

If you have any questions, please contact Leah Lemoine at (805) 549-3159 or leah.lemoine@waterboards.ca.gov, Sarah Crable at sarah.crable@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. R3-2023-0043
2. Exhibit A - Notice of Violation

cc via email:

California Department of Corrections and Rehabilitation:

Laurie Perri, laurie.perri@cdcr.ca.gov
Gregor Larabee, gregor.larabee@cdcr.ca.gov
Bryan Phillips, bryan.phillips@cdcr.ca.gov
RJ Rollings, rj.rollings@cdcr.ca.gov
Scott Buffaloe, scott.buffaloe@cdcr.ca.gov

Central Coast Water Board:

Thea Tryon
Tamara Anderson
Harvey Packard
Leah Lemoine
Sarah Crable
Todd Stanley

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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. R3-2023-0043
(UPON EXECUTION)**

California Department of Corrections and Rehabilitation
California Men's Colony Wastewater Treatment Facility
EPL No. R3-2023-0043
Waste Discharge Requirements Order No. R3-2020-0005
National Pollutant Discharge Elimination System (NPDES) Permit No. CA0047856
WDID: 3 400108001

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. R3-2023-0043 (Conditional Offer) to participate in the expedited payment program relating to violations of the Permittee's NPDES permit for 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. R3-2023-0043
Settlement Agreement and Stipulation for Entry of
Administrative Civil Liability Order No. R3-2023-0043

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. R3-2023-0043 (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. R3-2023-0043
Settlement Agreement and Stipulation for Entry of
Administrative Civil Liability Order No. R3-2023-0043

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)

8-7-23
(Date)

Danny Samuel

(Printed or typed name)

Warden

(Title)

Expedited Payment Letter (EPL) No. R3-2023-0043
Settlement Agreement and Stipulation for Entry of
Administrative Civil Liability Order No. R3-2023-0043

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

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Waiver.docx

ECM Primary Indexing # 212681

EPL No. R3-2023-0043 – Exhibit A
Stipulated ACL Order No. R3-2023-0043
California Department of Corrections and Rehabilitation
California Men’s Colony Wastewater Treatment Facility

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: January 4, 2023 – March 31, 2023

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 January 4, 2023, through March 31, 2023, 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. R3-2023-0043 – Exhibit A
 Stipulated ACL Order No. R3-2023-0043
 California Department of Corrections and Rehabilitation
 California Men’s Colony Wastewater Treatment Facility

#	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	1114062	1/4/23	Nitrogen, Total (as N)	Group 1	Maximum Daily	10	12.7	mg/L	27%	C	7/8/22	22	\$ 3,000
2	1114059	1/24/23	Nitrogen, Total (as N)	Group 1	Maximum Daily	10	17.9	mg/L	79%	S	N/A	N/A	\$ 3,000
3	1114061	1/31/23	Copper, Total	Group 2	Monthly Average	7.5	8.3	µg/L	11%	C	8/4/22	14	\$ 3,000
4	1115150	2/1/23	Nitrogen, Total (as N)	Group 1	Maximum Daily	10	17	mg/L	70%	S	N/A	N/A	\$ 3,000
5	1115159	2/7/23	Nitrogen, Total (as N)	Group 1	Maximum Daily	10	19	mg/L	90%	S	N/A	N/A	\$ 3,000
6	1115147	2/14/23	Nitrogen, Total (as N)	Group 1	Maximum Daily	10	22	mg/L	120%	S	N/A	N/A	\$ 3,000
7	1115158	2/16/23	pH	Other	Daily Minimum	7	6.9	SU	N/A	C	8/20/22	18	\$ 3,000

EPL No. R3-2023-0043 – Exhibit A
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 California Department of Corrections and Rehabilitation
 California Men’s Colony Wastewater Treatment Facility

#	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	1115146	2/18/23	pH	Other	Daily Minimum	7	6.8	SU	N/A	C	8/22/22	19	\$ 3,000
9	1115148	2/22/23	Nitrogen, Total (as N)	Group 1	Maximum Daily	10	23	mg/L	130%	S	N/A	N/A	\$ 3,000
10	1115151	2/28/23	Nitrogen, Total (as N)	Group 1	Maximum Daily	10	11	mg/L	10%	C	9/1/22	21	\$ 3,000
11	1115153	2/28/23	Copper, Total	Group 2	Monthly Average	7.5	10.1	µg/L	35%	S	N/A	N/A	\$ 3,000
12	1116137	3/31/23	Dibromochloromethane	Group 2	Monthly Average	0.4	0.55	µg/L	38%	S	N/A	N/A	\$ 3,000

Total Penalty: \$36,000

Total Mandatory Minimum Penalty Amount for Effluent Violations
 (7 Serious Violations + 5 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 when the limit is exceeded by less than 40%. “Non-serious” is also referred to as “chronic” in CIWQS, indicating violations are occurring too frequently.

EPL No. R3-2023-0043 – Exhibit A
Stipulated ACL Order No. R3-2023-0043
California Department of Corrections and Rehabilitation
California Men’s Colony Wastewater Treatment Facility

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%. “Non-serious” is also referred to as “chronic” in CIWQS, indicating violations are occurring too frequently.

For “Other” pollutants (i.e., pollutants other than Groups 1 or 2), a violation is non-serious when the limit is exceeded by any amount. “Non-serious” is also referred to as “chronic” in CIWQS, indicating violations are occurring too frequently. For the purposes of MMP enforcement, “Other” pollutant violations are not categorized as serious.

Each serious violation is subject to a mandatory minimum penalty of \$3,000.

A non-serious (also known as chronic) violation is subject to a mandatory minimum penalty of \$3,000 when it is preceded by three chronic or serious violations (or more) in a 180-day period representing six consecutive months (e.g., period commencing on the date of the violation being evaluated and ending 180 days before that date). The three most recent preceding chronic or serious violations within the 180-day period that are counted first toward qualifying a chronic violation for a mandatory minimum penalty are not penalized within that specific determination.

For example, if a violation named V4 is preceded by three violations V1, V2, and V3 within a 180-day period, V4 is determined to be subject to a mandatory minimum penalty of \$3,000. Within that specific determination for violation V4, V1 through V3 are counted but not penalized. However, each violation is subject to its own specific determination. So, V1, V2, and V3 are each subject to their own evaluation based on their specific occurrence dates and applicable 180-day periods and may warrant or have warranted in a previous enforcement action their own penalty as a chronic or serious violation.

Accordingly, all violations indicating “C” for “Chronic” in the above table also show four or more violations within 180 days because each of the chronic violations is preceded by three (or more) violations in that period. Please see the instructions on the first page of this exhibit if you would like to view in CIWQS all of the preceding violations applicable to the above chronic violations.

EPL No. R3-2023-0043 – Exhibit A
 Stipulated ACL Order No. R3-2023-0043
 California Department of Corrections and Rehabilitation
 California Men’s Colony Wastewater Treatment Facility

Term	Definition
Units	mg/L = milligrams per liter µg/L = micrograms per liter SU = standard units for pH
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.
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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