

EXHIBIT D-1

1 EDMUND G. BROWN JR.
Attorney General of the State of California
2 DAVID S. CHANEY
Chief Assistant Attorney General
3 FRANCES T. GRUNDER
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4 ROCHELLE C. EAST
Supervising Deputy Attorney General
5 LISA A. TILLMAN, State Bar No. 126424
Deputy Attorney General
6 1300 I Street, Suite 125
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7 Sacramento, CA 94244-2550
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10 Attorneys for Defendants

11
12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE EASTERN DISTRICT OF CALIFORNIA
14

15 **RALPH COLEMAN, et al.,**

16 Plaintiffs,

17 v.

18 **ARNOLD SCHWARZENEGGER, et al.,**

19 Defendants.
20

CASE NO.: 2:90-cv-00520 LKK JFM P

**DEFENDANTS' EX PARTE
MOTION TO AMEND AUGUST
2007 BED PLAN RE: CALIFORNIA
MEN'S COLONY, WITH
DECLARATION OF ROBIN
DEZEMBER, DECLARATION OF
LISA TILLMAN, [PROPOSED]
ORDER**

21 **I.**

22 **INTRODUCTION**

23 Defendants hereby seek an order approving the amendment of their August 2007
24 mental health bed plan to reflect that a 50-bed mental health crisis bed unit will be built
25 at the California Men's Colony (CMC) as a separate, not as a consolidated care, facility. This
26 motion is made on an ex parte basis, with no opposition from Plaintiffs' counsel, to ensure
27 expeditious compliance with the Court's order to develop such beds forthwith. (Orders,
28 3/26/07, 2/26/08.)

1 II.

2 LEGAL STATEMENT

3 Defendants' mental health bed plans have stated that a 50-bed mental health crisis bed
4 unit would be built at the California Men's Colony as part of the then planned development of a
5 consolidated care center on that campus. (Dec. Dezember, ¶ 5; Def. Bed Plan, 12/19/06, p. 11;
6 Def. Bed Plan, 8/17/07, p.6 n.7, p.15 n.15.) Since the filing of those plans, the Receiver has been
7 given authority over the construction of 5,000 medical and 5,000 mental health beds.
8 (Coordinated Court Order, 2/26/08.) The Receiver has now undertaken the task of selecting sites
9 for these consolidated care beds. The Receiver's potential consolidated care center sites do not
10 include CMC. (Dec. Dezember, ¶ 4; Ex. 1, Receiver's Chart of Potential CCC Sites.) Because
11 the Receiver has no plans to build a consolidated care center at CMC, Defendants request this
12 Court approve the amendment of its mental health care bed plan of December 2006, as
13 supplemented by the plan of August 2007, to reflect the mental health crisis bed unit at CMC will
14 be built as a stand-alone facility. (Dec. Dezember, ¶ 6.)

15 This request is compelled by Defendants' desire to inform this Court of developments
16 in its bed planning as well as certain Budget Act language for funding of the CMC mental health
17 crisis bed unit. Budget Act language permits the funding of a separate 50-bed mental health bed
18 unit at CMC only upon a *Coleman* court order stating that no consolidated care center would be
19 built at that site. The Budget Language states, in relevant part:

20 5. The funds appropriated in Chapter 7 of the Statutes of 2007, consistent with
21 subdivision (c) of Section 15819.40 of the Government Code, shall be used for
22 preliminary plans, working drawings, and construction of a 50-bed Mental Health
23 Crisis Bed facility at the California Men's Colony. The Department of Corrections and
24 Rehabilitation shall not expend these funds until the Department of Finance (DOF)
25 certifies that the *Coleman* court has resolved that the 50-bed facility is to be constructed
26 rather than the proposed larger Consolidated Care Center at this same prison. Upon making
27 such a finding, DOF shall provide notice within 10 days to the Chairperson of the Joint
28 Legislative Budget Committee and the chairpersons of the budget committees of both

1 houses of the Legislature.

2 (Chapter 171, Statutes of 2007, Item 5225-301-0660, Provision 5.)

3 Defendants understand the Receiver, who is vested with authority over construction of the
4 consolidated care centers, has now selected potential sites for those centers. (Dec. Dezember, ¶
5 4; Ex. 1, Receiver's Chart of Potential CCC Sites.) The Receiver's list of potential sites for the
6 consolidated care centers does not indicate CMC as a site. *Id.* Because CMC is not the site of a
7 consolidated care center, the mental health crisis bed unit at CMC must be built as a separate
8 facility in order to conform to the limitations on the use of funds imposed by the Budget Act.
9 Defendants therefore request that this Court enter an order resolving that the 50-bed facility is to
10 be constructed rather than the proposed larger Consolidated Care Center at CMC.

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III.

CONCLUSION

Defendants respectfully request this Court issue an order resolving that the 50-bed mental health crisis bed facility at CMC is to be constructed rather than the proposed Consolidated Care Center at the same site. Such an order will enable the Department of Finance to abide by Budget Act language to certify this Court's order and so enable the expenditure of funds for this project.

Dated: April 14, 2008

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of the State of California

DAVID S. CHANEY
Chief Assistant Attorney General

FRANCES T. GRUNDER
Senior Assistant Attorney General

ROCHELLE C. EAST
Supervising Deputy Attorney General

/s/ Lisa A. Tillman

LISA A. TILLMAN
Deputy Attorney General
Attorneys for Defendants

DECLARATION OF SERVICE BY U.S. MAIL

1
2 **Case Name:** *Coleman, et al. v. Schwarzenegger, et al.*
3 **Case No.:** 2:90-cv-00520 LKK JFM P

4 I declare:

5 I am employed in the Office of the Attorney General, which is the office of a member of the
6 California State Bar, at which member's direction this service is made. I am 18 years of age or
7 older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box
8 944255, Sacramento, CA 94244-2550.

9 On April 14, 2008, I served the attached **DEFENDANTS' EX PARTE MOTION TO**
10 **AMEND AUGUST 2007 BED PLAN RE: CALIFORNIA MEN'S COLONY, WITH**
11 **DECLARATION OF ROBIN DEZEMBER, DECLARATION OF LISA TILLMAN,**
12 **[PROPOSED] ORDER** by placing a true copy thereof enclosed in a sealed envelope with
13 postage thereon fully prepaid, in the United States Mail at Sacramento, California, addressed as
14 follows:

15 Fred D. Heather
16 Kirkpatrick & Lockhart Preston Gates Ellis, LLP
17 55 Second Street, Suite 1700
18 San Francisco, CA 94105

19 Raymond Edward Loughrey
20 Kirkpatrick & Lockhart Preston Gates Ellis, LLP
21 55 Second Street, Suite 1700
22 San Francisco, CA 94105

23 William E. Mitchell
24 Riverside County District Attorney's Office
25 4075 Main Street
26 Riverside, CA 92501

27 I declare under penalty of perjury under the laws of the State of California the foregoing is true
28 and correct and that this declaration was executed on **April 14, 2008**, at Sacramento, California.

D. Kulczyk

/s/ D. Kulczyk

Declarant

Signature

30422064.wpd
CF1997CS0003

EXHIBIT D-2

1 EDMUND G. BROWN JR.
Attorney General of the State of California
2 DAVID S. CHANEY
Chief Assistant Attorney General
3 FRANCES T. GRUNDER
Senior Assistant Attorney General
4 ROCHELLE C. EAST
Supervising Deputy Attorney General
5 LISA A. TILLMAN, State Bar No. 126424
Deputy Attorney General
6 1300 I Street, Suite 125
P.O. Box 944255
7 Sacramento, CA 94244-2550
Telephone: (916) 327-7872
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Email: Lisa.Tillman@doj.ca.gov
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10 Attorneys for Defendants

11
12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE EASTERN DISTRICT OF CALIFORNIA
14

15 **RALPH COLEMAN, et al.,**

16 Plaintiffs,

17 v.

18 **ARNOLD SCHWARZENEGGER, et al.,**

19 Defendants.
20

CASE NO.: 2:90-cv-00520 LKK JFM P

**DECLARATION OF LISA TILLMAN
IN SUPPORT OF DEFENDANTS' EX
PARTE MOTION TO AMEND
AUGUST 2007 BED PLAN RE:
CALIFORNIA MEN'S COLONY**

21 I, Lisa Tillman, declare:

22 1. I am an attorney licensed to practice before the courts of the State of California
23 and admitted to practice before this Court. I am employed by the Office of the Attorney General,
24 attorney for the defendants in this matter.

25 2. I have personal knowledge of the facts stated in this declaration and if called to
26 testify would do so competently.

27 3. I informed Plaintiff counsels Michael Bien and Jane Kahn of Rosen, Bien and
28 Galvan as well as Plaintiff counsels Steve Fama and Ivan Trujillo of the Prison Law Office by

1 an email sent on Thursday, April 10, 2008 that Defendants intended to file an ex parte motion to
2 amend the submitted mental health care bed plan of December 2006, as supplemented by the bed
3 plan of August 2007, to indicate that the 50-bed mental health crisis bed facility at California
4 Men's Colony would be built without any consolidated care center at that campus.

5 4. In response to my email, Plaintiff counsels Michael Bien and Jane Kahn
6 agreed that this motion could be filed on an ex parte basis. They stated no opposition to the
7 amendment of the Defendants' of December 2006, as supplemented by the bed plan of August
8 2007, to indicate that the 50-bed mental health crisis bed facility at California Men's Colony
9 would be built without any consolidated care center at that campus.

10 I declare under the penalty of perjury that the foregoing is true and correct.

11 Executed on April 14, 2008 in Sacramento, California.

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13 By: /s/ Lisa Tillman
Lisa Tillman

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: *Coleman, et al. v. Schwarzenegger, et al.*
Case No.: 2:90-cv-00520 LKK JFM P

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On April 14, 2008, I served the attached **DECLARATION OF LISA TILLMAN IN SUPPORT OF DEFENDANTS' EX PARTE MOTION TO AMEND AUGUST 2007 BED PLAN RE: CALIFORNIA MEN'S COLONY** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Sacramento, California, addressed as follows:

Fred D. Heather
Kirkpatrick & Lockhart Preston Gates Ellis, LLP
55 Second Street, Suite 1700.
San Francisco, CA 94105

Raymond Edward Loughrey
Kirkpatrick & Lockhart Preston Gates Ellis, LLP
55 Second Street, Suite 1700
San Francisco, CA 94105

William E. Mitchell
Riverside County District Attorney's Office
4075 Main Street
Riverside, CA 92501

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 14, 2008, at Sacramento, California.

D. Kulczyk

/s/ D. Kulczyk

Declarant

Signature

30435789.wpd
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EXHIBIT D-3

1 EDMUND G. BROWN JR.
Attorney General of the State of California
2 DAVID S. CHANEY
Chief Assistant Attorney General
3 FRANCES T. GRUNDER
Senior Assistant Attorney General
4 ROCHELLE C. EAST
Supervising Deputy Attorney General
5 LISA A. TILLMAN, State Bar No. 126424
Deputy Attorney General
6 1300 I Street, Suite 125
P.O. Box 944255
7 Sacramento, CA 94244-2550
Telephone: (916) 327-7872
8 Fax: (916) 324-5205
Email: Lisa.Tillman@doj.ca.gov
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10 Attorneys for Defendants

11
12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE EASTERN DISTRICT OF CALIFORNIA

14 **RALPH COLEMAN, et al.,**

15 Plaintiffs,

16 v.

17 **ARNOLD SCHWARZENEGGER, et al.,**

18 Defendants.
19

CASE NO.: 2:90-cv-00520 LKK JFM P

**DECLARATION OF ROBIN
DEZEMBER IN SUPPORT OF
DEFENDANTS' EX PARTE
MOTION TO AMEND AUGUST
2007 BED PLAN RE: CALIFORNIA
MEN'S COLONY**

20 I, Robin Dezember, declare:

21 1. I am employed as the Chief Deputy Secretary of Correctional Health Care
22 Services of the California Department of Corrections and Rehabilitation (CDCR). I have
23 personal knowledge of the facts stated in this declaration and if called to testify upon those
24 facts would do so competently.

25 2. I have met regularly with John Hagar, Chief of Staff of the *Plata* Receiver's
26 Office, to coordinate the *Plata* and *Coleman* construction efforts.

27 3. In the course of our recent meetings, I learned that Mr. Hagar had selected
28 potential sites for consolidated care centers. Those sites do not include the California Men's

1 Colony.

2 4. The Receiver's Office prepared and provided me with a chart showing the
3 potential sites for a consolidated care centers. The chart does not list the California Men's
4 Colony as a separate consolidated care center site. Attached herein as Exhibit I is a true and
5 correct copy of that chart.

6 5. I am familiar with Defendant CDCR's submitted mental health care bed plan of
7 December 2006 and its supplemental plan of August 2007. Those plans indicate a 50-bed mental
8 health care bed unit will be built at the California Men's Colony (CMC) as part of a consolidated
9 care center at that prison.

10 6. In light of the Office of the Receiver's decision to not place a consolidated care
11 center at CMC, I recognize Defendant CDCR's submitted mental health care bed plans must be
12 amended to reflect that the mental health crisis bed unit at CMC will be built rather than a
13 consolidated care center at that prison.

14 I declare under the penalty of perjury that the foregoing is true and correct.

15 Executed in Sacramento, California on April 11, 2008.

16 By: 
17 Robert Dezember

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: Coleman, et al. v. Schwarzenegger, et al.
Case No.: 2:90-cv-00520 LKK JFM P

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On April 14, 2008, I served the attached **DECLARATION OF ROBIN DEZEMBER IN SUPPORT OF DEFENDANTS' EX PARTE MOTION TO AMEND AUGUST 2007 BED PLAN RE: CALIFORNIA MEN'S COLONY** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Sacramento, California, addressed as follows:

Fred D. Heather
Kirkpatrick & Lockhart Preston Gates Ellis, LLP
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San Francisco, CA 94105

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Kirkpatrick & Lockhart Preston Gates Ellis, LLP
55 Second Street, Suite 1700
San Francisco, CA 94105

William E. Mitchell
Riverside County District Attorney's Office
4075 Main Street
Riverside, CA 92501

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 14, 2008, at Sacramento, California.

D. Kulczyk

/s/ D. Kulczyk

Declarant

Signature

30422069.wpd

**EXHIBIT ONE (1) TO DEFENDANTS' EX PARTE MOTION TO AMEND
AUGUST 2007 BED PLAN RE: CALIFORNIA MEN'S COLONY**

Expansion Program

Potential sites include:

- Tracy (DVI)
- Folsom (State Prison)
- Solano / Vacaville (State Prison)
- Stockton (NCRYCC)
- San Diego (RJ Donovan)
- Camarillo (Ventura Youth Correctional)
- Chino (CIM)
- Whittier (Fred C. Nelles)

Medical	Capacity
General Pop.	3,650
Low Acuity	900
High Acuity	450
Subtotal	5,000

Mental Health	Capacity
Enh. Outpatient	3,672
Intermediate	350
Acute & Crisis	270
Subtotal	4,292

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RALPH COLEMAN, et al.,

Plaintiffs,

v.

ARNOLD SCHWARZENEGGER, et al.,

Defendants.

CASE NO.: 2:90-cv-00520 LKK JFM P
**[PROPOSED] ORDER GRANTING
DEFENDANTS' REQUEST FOR AN
EXTENSION OF TIME RE:
SUBMISSION OF INFORMATION
DELINEATING AUGUST 2007
MENTAL HEALTH BED PLAN**

Upon good cause appearing, Defendants request for an extension of time to June 16, 2008 to respond to each of the items listed in numbered paragraphs 6 and 7 of this Court's October 17, 2007 order is hereby granted.

Dated: _____

The Honorable Lawrence K. Karlton

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: *Coleman, et al. v. Schwarzenegger, et al.*
Case No.: 2:90-cv-00520 LKK JFM P

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On April 14, 2008, I served the attached [PROPOSED] ORDER GRANTING DEFENDANTS' REQUEST FOR AN EXTENSION OF TIME RE: SUBMISSION OF INFORMATION DELINEATING AUGUST 2007 MENTAL HEALTH BED PLAN by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Sacramento, California, addressed as follows:

Fred D. Heather
Kirkpatrick & Lockhart Preston Gates Ellis, LLP
55 Second Street, Suite 1700
San Francisco, CA 94105

Raymond Edward Loughrey
Kirkpatrick & Lockhart Preston Gates Ellis, LLP
55 Second Street, Suite 1700
San Francisco, CA 94105

William E. Mitchell
Riverside County District Attorney's Office
4075 Main Street
Riverside, CA 92501

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 14, 2008, at Sacramento, California.

D. Kulczyk

/s/ D. Kulczyk

Declarant

Signature