

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

STAFF REPORT FOR REGULAR MEETING OF APRIL 21-22, 2022

Prepared on March 28, 2022

ITEM NUMBER: 13

SUBJECT: **ENFORCEMENT REPORT AND SUPPLEMENTAL ENVIRONMENTAL AND ENHANCED COMPLIANCE ACTION PROJECTS UPDATE**

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ACTION: Informational

SUMMARY

This staff report summarizes Central Coast Water Board enforcement actions taken from September 1, 2021 through February 28, 2022, and provides a status update on individual supplemental environmental projects (SEPs) and enhanced compliance action (ECA) projects either completed or in progress since May 1, 2021. The update on in-progress SEPs is also translated to Spanish. For information on SEPs and ECAs completed or in progress prior to May 2021, please refer to the [June 18, 2021 Enforcement Report](#). For information on enforcement program priorities, please refer to the [October 14, 2021 Enforcement Report](#).

ENFORCEMENT REPORT

Attachment 1 of this staff report includes the Enforcement Report consisting of Tables 1 through 6. Tables 1 through 5 summarize Central Coast Water Board enforcement actions taken from September 1, 2021 through February 28, 2022, and include final administrative civil liability (ACL) orders (Table 1), expedited payment program letters to resolve mandatory minimum penalties or other non-controversial violations (Table 2), time schedule orders (Table 3), notices of violation covering various Central Coast Water Board programs (Table 4), and notices of non-compliance for industrial or construction stormwater general permit annual reporting or enrollment (Table 5).

Table 6 in Attachment 1 summarizes alleged violations reported from July 1, 2021 through December 31, 2021. Central Coast Water Board staff uses the California Integrated Water Quality System (CIWQS) and the Storm Water Multiple Application and Report Tracking System (SMARTS) to track Central Coast Water Board data, including violations and enforcement actions. Central Coast Water Board staff are currently reviewing the alleged violations that have not already been addressed to assess priorities for potential future enforcement.

A general description of the different types of enforcement actions Central Coast Water Board staff may take or recommend are provided in Attachment 2. Abbreviations used throughout the Enforcement Report are defined in Attachment 3. More detailed descriptions of each type of enforcement action are provided in the State Water Resources Control Board's (State Water Board) [2017 Water Quality Enforcement Policy](#).¹

BACKGROUND

The Water Boards have a variety of enforcement tools to use in response to non-compliance by dischargers. The Central Coast Water Board follows a progressive enforcement approach and contemplates an escalating series of actions beginning with notification of violations and compliance assistance, followed by enforcement orders compelling compliance, and potentially a complaint for civil liabilities as appropriate and necessary. Central Coast Water Board enforcement team follow the State Water Board's Water Quality Enforcement Policy to calculate penalty amounts as the Policy establishes an ACL assessment methodology to create a transparent, fair, and consistent statewide approach to assess liabilities.

The Central Coast Water Board enforcement team typically reaches resolution of an ACL through settlement. As part of the settlement, the discharger can request a permanent suspension of a portion of the liability in lieu of submitting the full payment to the State Water Board's Cleanup and Abatement Account (CAA) or the Waste Discharge Permit Fund (WDPF) to satisfy the administrative liability when the discharger voluntarily agrees to fund a SEP or an ECA.²

STATUS UPDATE ON INDIVIDUAL SUPPLEMENTAL ENVIRONMENTAL AND ENHANCED COMPLIANCE ACTION PROJECTS

This section of the staff report summarizes individual SEPs and an ECA that were either completed or in-progress between May 1, 2021 and March 1, 2022.

¹ State Water Board, 2017 Water Quality Enforcement Policy, effective October 5, 2017, https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf

² A SEP is an environmentally beneficial project that a person subject to an enforcement action voluntarily agrees to undertake or fund through an appropriate third party and an ECA is a project that enables a discharger to make capital or operational improvements beyond those required by law, and are separate from projects designed to merely bring a discharger into compliance.

COMPLETED SEP AND ECA**City of El Paso de Robles ACL Order No. R3-2016-0038: Paso Robles Groundwater Basin Monitoring SEP – COMPLETED JUNE 30, 2021**

On January 23, 2017, the Central Coast Water Board issued ACL Order No. R3-2016-0038 to the City of Paso Robles to resolve minimum mandatory penalties totaling \$495,000 for effluent limitation violations at Paso Robles' wastewater treatment plant. Paso Robles applied \$216,500 of the penalty to the Paso Robles Groundwater Basin Monitoring SEP.

This SEP included installation of a network of monitoring wells and stream gages on the Salinas River and its major tributaries within the Paso Robles groundwater basin to inform the connectivity of the basin to surface waterbodies. Paso Robles coordinated with the Paso Robles Subbasin Groundwater Sustainable Agencies (GSAs) to complete the SEP tasks. The main SEP tasks included the installation of alluvial and formation groundwater monitoring wells at the 13th Street Bridge and Airport Road/Estrella sites. The project team also completed the installation of three stream gages associated with these sites and coordinated with San Luis Obispo County to ensure stream gage equipment is compatible with the County's stream gage and remote monitoring network.

City of Morgan Hill ACL Order No. R3-2019-0039: Morgan Hill Sanitary Sewer Asset Management ECA – COMPLETED AUGUST 21, 2021

On March 11, 2020, the Central Coast Water Board issued ACL Order No. R3-2019-0039 to the City of Morgan Hill for discharges of untreated domestic and municipal wastewater from its collection system to Llagas Creek for a total liability amount of \$433,366. The settlement agreement included two ECAs. One of the ECAs was completed on June 21, 2020, and is summarized in the [June 2021 Enforcement Staff Report](#). The remaining ECA was the Morgan Hill Sanitary Sewer System Asset Management Plan Development and Implementation Project for \$189,677 that was completed on August 21, 2021. The Morgan Hill Sanitary Sewer Asset Management ECA included the development and implementation of an asset management plan to improve sanitary sewer overflow (SSO) prevention and response.

This ECA included: 1) asset inventory informed by records review and field surveys to assess condition of sewers subject to unstable soils, manhole covers and pipes subject to erosion, and hydraulically significant assets identified by gap analysis, 2) asset levels of service and consequences of failure to inform critical assets, 3) risk of failure for critical assets, 4) risk-based repair and replacement schedule, and 5) a final sanitary sewer system asset management plan.

IN-PROGRESS SEPs**Monterey Mushroom ACL Order R3-2020-0048: Community Water Center (CWC) 1,2,3-Trichloropropane (1,2,3-TCP) SEP**

On July 17, 2020, the Central Coast Water Board issued ACL Order No. R3-2020-0048 to Monterey Mushrooms, Inc. and Spawn Mate, Inc. for unauthorized discharges of process wastewater and polluted stormwater to an unnamed tributary of Elkhorn Slough, for a total liability amount of \$1,169,425. The settlement includes a third party-administered SEP that is being performed by CWC for \$599,775 to conduct outreach and education and to implement a pilot project for the design, installation, maintenance, and monitoring of 1,2,3-TCP point of entry (POE) household-level water treatment systems for Disadvantaged Community (DAC) households in unincorporated areas of northern Monterey County. Although the residents living in these homes are receiving bottled water for drinking and cooking to address concurrent nitrate contamination, these residents are not protected from exposure to 1,2,3-TCP due to inhalation and dermal exposure from showering and other household uses. Cost effective treatment methods for 1,2,3-TCP have not been widely studied or implemented. Following is a summary of progress made on SEP tasks:

Outreach and education – CWC conducted community outreach and education to potential candidate households providing information about 1,2,3-TCP health impacts and the opportunity to potentially receive POE treatment to address 1,2,3-TCP impacts exceeding maximum contaminant levels in their drinking water. CWC conducted initial outreach to 21 households during the first six months of the pilot project, but CWC has conducted subsequent outreach to additional potential candidate households throughout the project duration. These outreach efforts were complicated by pandemic related constraints, but CWC was successful in modifying its community outreach accordingly.

POE treatment system implementation – CWC solicited bids and awarded contracts for implementing two phases of POE installations. During the first phase of the POE installations, the project team completed site assessments for 12 wells serving 20 households that had previously exceeded the 1,2,3-TCP maximum contaminant level of 5 parts per trillion. Each site assessment included additional water quality sampling and feasibility assessments prior to POE treatment system installation. Concurrently, the project team identified other potential sites for POE installations, because some of the original candidate sites were not viable for the following reasons: wells that originally exceeded the 1,2,3-TCP maximum contaminant level were non-detect during follow-up sampling; elevated *E. coli* levels; compromised infrastructure (e.g., wells, tanks, pipes, fittings and seals) increasing risk for bacteria contamination and/or system failures; property owners were unwilling or lacked funding to fix issues; and candidate property owners were not amenable to receiving POEs. The POE treatment systems consist of tanks, with granular activated carbon, that are installed outside of the home on a concrete pad where water enters the house.

The first POE was installed in December 2020, and has been operating for approximately seven months.³ In June 2021, the project team installed two additional POE treatment systems. The three POE treatment systems that are currently online, serve a total of four households comprised of 14 people. The contractor maintains and monitors POE systems monthly and CWC provides monthly reports to property owners and discusses the results with them. Since the POE treatment systems have been online, all monitoring results for 1,2,3-TCP have been below the detection limit and the project team has not had to backwash or replace the granular activated carbon.

Informed by lessons learned from installing and monitoring the first three POE treatment systems, the project team decreased the POE treatment system size to yield easier to install systems with lower initial capital costs. The project team plans to closely monitor operation and maintenance costs, to inform whether the larger original system or modified smaller system has the lower life cycle costs. The project team plans to install the modified systems on six wells, serving seven households comprised of 33 people. The project team has purchased the modified POE treatment systems and plans to install these six systems this Spring. Central Coast Water Board staff will continue to coordinate with CWC to determine if remaining SEP budget can cover costs to install more POE treatment systems to serve additional households.

Engage technical and regulatory experts and share project results – CWC convened a technical advisory committee (TAC) with approximately thirty participants to inform the pilot project. CWC has solicited project input from State Water Board Division of Drinking Water staff, including technical feedback informing the POE treatment system design. The Monterey County Environmental Health Bureau has stayed apprised of this project through its involvement in the TAC, but does not directly regulate wells served by this project. Additionally, CWC has been sharing lessons learned related to this pilot project with the State Water Board's Safe and Affordable Funding for Equity and Resilience (SAFER) program staff and participated in a stakeholder outreach effort on POE/ Point of Use (POU) organized by the SAFER Engagement Unit. CWC also submitted recommendations for POEs to inform the State Water Board's POE/POU white paper.

CWC submits quarterly reports to the Central Coast Water Board, which include updates on SEP task progress and details on POE treatment system performance and budget. As of December 31, 2021, CWC has expended \$206,778, has a \$306,221 contract for the purchase and installation of the six additional systems and operation and maintenance of all systems through June 2023, and has 14 percent of the total SEP amount left to cover CWC's remaining expenses including indirect costs, project oversight, and sharing project results with stakeholders.

³ The project team temporarily took the treatment system offline from January 2021 to June 2021 due to bacteria issues but have since resolved the issues and the system is back online.

Monterey One Water ACL Order No. R3-2021-0051: Private Lateral Rehabilitation Project for the Castroville Community Services District

On August 18, 2021, the Central Coast Water Board issued ACL Order No. R3-2021-0051 to Monterey One Water to resolve three violations for unauthorized discharges of untreated wastewater from Monterey One Water's wastewater treatment plant and sanitary sewer system to the Pacific Ocean, for a total administrative civil liability amount of \$800,000. Monterey One Water applied \$790,000 of the penalty to the Private Lateral Rehabilitation Project for the Castroville Community Services District SEP. This SEP consists of assessment, repair, and replacement of defective privately-owned residential sewer laterals within DAC areas in the Castroville Community Services District's service area. The SEP is intended to improve the sanitary sewer system integrity to reduce the potential for rainwater entering and sewage exiting the system, thereby preventing sanitary sewer overflows and protecting local surface water and groundwater quality and public health.

Monterey One Water solicited bids, awarded a contract, and in December 2021 the contractor completed Phase 1 of a video investigation of 49 properties to identify sewer lateral condition and possible defects by launching a lateral camera from the sewer main. Prior to the video investigation, Monterey One Water notified property owners and residents via bilingual mailed flyers and door hangers of the planned investigative work. Additionally, Monterey One Water secured a right of entry agreement with one property owner to gain access to the main sewer line through the owner's property. Monterey One Water has analyzed the results of the Phase 1 investigation and has identified an initial list of properties for lateral replacement.

Phase 2 of the investigation will include the remaining 52 properties. Monterey One Water is assessing alternative investigative methods because the lateral camera method was not possible for various reasons. Monterey One Water has begun the process of obtaining permissions to enter each of the 52 properties to video the lateral from the cleanout near the house.

As of March 24, 2022, Monterey One Water has met the project milestone dates specified in ACL Order No. R3-2021-0051. Monterey One Water has expended \$59,342 and 92 percent of the total SEP amount is left.

Human Right to Water

California Water Code section 106.3, subdivision (a) states that it is the policy of the State of California "that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation purposes." On January 26, 2017, the Central Coast Water Board adopted Resolution No. R3-2017-0004, which affirms the realization of the human right to water and the protection of human health as the Central Coast Water Board's top priorities.

Consistent with Resolution No. R3-2017-0004, enforcement resources focus on the highest priority non-compliance issues facing the region and violations that cause

drinking water quality and/or public health impacts in communities facing economic and/or social inequities. For example, the Central Coast Water Board issued ACL Order No. R3-2022-0013 to Chris Mathys et al. to address a failure to submit a workplan to assess groundwater impacts that had historically caused a nearby City of Santa Maria⁴ municipal drinking water supply well to shut down and to also assess the risk for vapor intrusion from trichloroethylene impacted groundwater to overlying site buildings (see Table 1 of Attachment 1). The Central Coast Water Board also issued 235 notices of violation to operators and landowners enrolled in Agricultural Order 3.0 for failure to submit domestic well groundwater sampling data. The notices of violation also included a reminder that on-farm domestic supply wells and primary irrigation wells require sampling and reporting by July 31, 2022, pursuant to Agricultural Order 4.0 (see Table 4 of Attachment 1). Obtaining domestic well sampling data from on-farm wells is a high priority for the Central Coast Water Board to ensure protection of public health.

Additionally, Central Coast Water Board enforcement staff has expended resources to facilitate projects in alignment with the Human Right to Water such as the 1,2,3-TCP SEP and Private Lateral Rehabilitation Project for the Castroville Community Services District SEP described in this staff report.

Environmental Justice

Environmental Justice principles call for the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income in the development, adoption, implementation, and enforcement of all environmental laws, regulations, and policies that affect every community's natural resources and the places people live, work, play, and learn. The Central Coast Water Board implements regulatory activities and water quality projects in a manner that ensures the fair treatment of all people, including Underrepresented Communities. Underrepresented Communities include but are not limited to DACs, Severely Disadvantaged Communities (SDACs), Economically Distressed Areas (EDAs), Tribes, Environmentally Disadvantaged Communities (EnvDACs), and members of Fringe Communities. Furthermore, the Central Coast Water Board is committed to providing all stakeholders the opportunity to participate in the public process and provide meaningful input to decisions that affect their communities.

Consistent with the Central Coast Water Board's goal to advance environmental justice and water equity in Underrepresented Communities, the Central Coast Water Board enforcement team prioritizes violations associated with discharges that impact drinking water and/or public health in Underrepresented Communities. For example, enforcement staff have prioritized violations associated with communities that do not have the economic means to address unsafe drinking water or other public health related issues. The 1,2,3-TCP SEP and the Private Lateral Rehabilitation Project for the Castroville Community Services District SEP are examples how enforcement resources have been dedicated to assist Underrepresented Communities and individual in

⁴ The location of the site is in a DAC Block Group according to the Department of Water Resources DAC Mapping Tool.

addressing drinking water and sewer needs. The issuance of 235 notices of violation to operators and landowners enrolled in the Agricultural Order for failing to submit on-farm domestic wells sampling data was also prioritized to address the need to ensure protection of public health. Central Coast Water Board enforcement staff plans to continue to prioritize violations impacting communities facing economic and/or social inequities.

Climate Change

The Central Coast faces the threat and the effects of climate change for the foreseeable and distant future. To proactively prepare and respond, the Central Coast Water Board has launched the Central Coast Water Board's Climate Action Initiative, which identifies how the Central Coast Water Board's work relates to climate change and prioritizes actions that improve water supply resiliency through water conservation and wastewater reuse and recycling; mitigate for and adapt to sea level rise and increased flooding; improve energy efficiency; and reduce greenhouse gas production. The Climate Action Initiative is consistent with the Governor's Executive Order B-30-15 and the State Water Board's Climate Change Resolution No. 2017-0012.

Central Coast Water Board enforcement staff has expended resources to facilitate projects in alignment with the climate change priority. The Private Lateral Rehabilitation Project for the Castroville Community Services District SEP is intended to build climate change resiliency by reducing potential for inflow and infiltration into the district's sanitary sewer system and helping prevent sanitary sewer system overflows at the Castroville and Moss Landing pump stations that are near surface waterbodies. Because climate change has resulted in more intense storm events resulting in more localized flooding, there may be increased potential for inflow and infiltration into the district's sanitary sewer system.

CONCLUSION

Central Coast Water Board enforcement staff continues to honor the Board's direction to implement the human right to water, address water quality impacts in Underrepresented Communities, and build climate change resiliency. Central Coast Water Board enforcement staff has prioritized violations addressing these priorities and has expended resources to facilitate projects aligned with these priorities.

ATTACHMENTS

1. Enforcement Report
2. Enforcement Action Descriptions
3. Enforcement Report Abbreviations

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