

**PUBLIC COMMENTS AND CENTRAL COAST WATER BOARD ENFORCEMENT
TEAM RESPONSES
PROPOSED SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF
ADMINISTRATIVE CIVIL LIABILITY ORDER R3-2025-0005**

This document presents the public comments received during the public comment period for the proposed Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order R3-2025-0005 (Stipulated Order). The public comment period was December 31, 2024 through January 31, 2025. The Central Coast Water Board received one public comment letter from San Luis Obispo County. The Central Coast Water Board enforcement team is not proposing changes to the proposed Stipulated Order based on the public comments.

Public Comments Received and Central Coast Water Board Enforcement Team Responses:

Comment 1: *The County of San Luis Obispo appreciates the opportunity to provide comments on the proposed Settlement Agreement and Stipulation of Administrative Civil Liability Order, R3-2025-0005 (Proposed Settlement Agreement).*

The County of San Luis Obispo (County) is encouraged by the California Department of Corrections' utilization of the Supplemental Environmental Project program (SEP Program). The SEP Program presents an important opportunity to implement beneficial and restorative water quality projects in watersheds that have been directly impacted by unauthorized discharges.

Staff Response to Comment 1: The Central Coast Water Board enforcement team appreciates the comments from San Luis Obispo County supporting the inclusion of California Department of Corrections and Rehabilitation paying a portion of the liability in the proposed Stipulated Order as supplemental environmental project (SEP) funds to fund the Bay Foundation of Morro Bay's (Bay Foundation) Central Coast Drinking Water Well Testing Program (Drinking Water Well Testing Program).

Comment 2: *The County is commenting on the Proposed Settlement Agreement to encourage the Central Coast Water Board to more actively administer the SEP Program in the Central Coast Region. Limiting the portfolio of SEP Program projects to the Bay Foundation's Drinking Water Well Testing Program precludes the submittal and consideration of worthy multi-benefit projects that could directly benefit impacted communities and meet the regional priority criteria. Currently, the Drinking Water Well Testing Program is the only SEP posted to the Central Coast Water Board public webpage. In discussion with County staff, Water Board staff have indicated that they do not intend to evaluate or include new potential SEP projects in a list for consideration due to staffing capacity limitations.*

The County acknowledges that program staffing presents a challenge to evaluating additional SEP projects and developing a list of potential SEPs. However, State Water Board Resolution 2017-0074 (2017 SEP Policy) includes a provision that Regional Water Boards or Divisions without adequate resources available to solicit and evaluate SEP proposals in their jurisdictions may request assistance to comply with this Policy's solicitation and selection requirements in writing from the Director of OE.

The County believes that there are potentially many eligible and beneficial SEP Program projects across the region that align with the regional priorities and merit inclusion. We encourage the Central Coast Water Board to solicit and evaluate SEP proposals as an opportunity to advance the regional priority criteria through multi-benefit projects in directly affected communities.

Staff Response to Comment 2: The Central Coast Water Board enforcement team recognizes that SEP projects are beneficial and agrees that there are likely many potential beneficial SEPs. The Central Coast Water Board Assistant Executive Officer has the discretion to provide the opportunity for a discharger in settlement negotiations to opt to suspend a portion of an administrative civil liability to fund a pre-approved SEP or a discharger-proposed SEP. The County is correct that the Central Coast Water Board currently only has the Bay Foundation's Drinking Water Well Testing Program as a pre-approved SEP program and currently does not have the staff resources to solicit and review other potential pre-approved SEP projects that a discharger may or may not select in the future.

When the Central Coast Water Board enforcement team receives SEP proposals, it takes significant staff resources to evaluate the proposals to ensure the project is aligned with the State Water Resources Control Board's (State Water Board's) 2024 Water Quality Enforcement Policy (2024 Enforcement Policy)¹ and the State Water Board's December 2017 Policy on Supplemental Environmental Projects (SEP Policy).² Additionally, the enforcement team also evaluates whether the discharger-proposed SEP aligns with Central Coast Water Board priority SEP criteria.³

¹ State Water Board, 2024 Water Quality Enforcement Policy, effective November 7, 2024, https://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/2024/2024-enforcement-policy.pdf.

² State Water Board, 2017 Policy on Supplemental Environmental Projects, Effective May 3, 2018, https://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/seps/20180503_sep_policy_a.md.pdf.

³ See Central Coast Water Board priority criteria for evaluating SEP proposals under "Submitting Project Proposals" on the Central Coast Water Board Enforcement Program webpage: https://www.waterboards.ca.gov/centralcoast/water_issues/programs/enforcement/.

Proposed Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order R3-2025-0005

Public Comments and Central Coast Water Board Enforcement Team Responses

If San Luis Obispo County is aware of potential SEPs for inclusion on a SEP list, the County can propose a SEP by completing the CalEPA SEP Proposal Form.⁴ CalEPA routes proposed SEPs to the appropriate CalEPA agency for consideration on a SEP list. Additional information on submitting SEP proposals to the Water Boards is available on the State Water Board's Supplemental Environmental Projects Website.⁵

Currently, the Central Coast Water Board enforcement team is unable to spend the team's limited staff resources on solicitation and review of potential SEP projects at the expense of managing multiple high priority enforcement actions that address violations. The Central Coast Water Board enforcement team will seek the State Water Board Office of Enforcement's assistance for reviewing submitted SEP proposals to verify consistency with the SEP Policy prior to adding them to the available SEP list.

During settlements, dischargers can also propose SEP ideas. Typically, during settlement, once a liability amount is agreed upon, the discharger has the prerogative to propose to suspend liabilities to fund a pre-approved SEP, a discharger-proposed SEP(s), or other type of settlement project if applicable for the Central Coast Water Board Assistant Executive Officer's consideration. The Central Coast Water Board Assistant Executive Officer considers multiple factors when considering to agreeing to a SEP or other settlement project.

⁴ The link to the CalEPA SEP Proposal Form is available at the following website:
<https://calepa.ca.gov/sep-proposal-form/>

⁵ State Water Board's Supplemental Environmental Projects Website:
https://www.waterboards.ca.gov/water_issues/programs/enforcement/sep.html#:~:text=The%20State%20Water%20Board%20adopted,became%20effective%20on%20that%20date