

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

STAFF REPORT FOR REGULAR MEETING OF FEBRUARY 20-21, 2025

Prepared on January 31, 2025

ITEM NUMBER: 9

SUBJECT: **Consideration of Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order in the matter of California Department of Corrections and Rehabilitation, California Men’s Colony; Unauthorized Discharges of Waste and Effluent Limitation Violations (Proposed Stipulated Order R3-2025-0005)**

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KEY INFORMATION:

Location: California Men’s Colony Wastewater Treatment Plant – Sutter Avenue and Tehama Avenue, approximately six miles northwest of the City of San Luis Obispo, San Luis Obispo County
California Men’s Colony Drinking Water Treatment Plant – Lake Chorro Road, approximately four miles north of the City of San Luis Obispo, San Luis Obispo County

Type and/or Estimated Volume of Discharge: December 2022 – Unauthorized discharge of approximately 50,000 gallons of partially treated domestic/municipal wastewater from California Men’s Colony Wastewater Treatment Plant to Chorro Creek
May 2023 through May 2024 – National Pollutant Discharge Elimination System (NPDES) Permit effluent limitation violations from California Men’s Colony Wastewater Treatment Plant discharges to Chorro Creek
August 2023 – Unauthorized discharge of an estimated 400,200 gallons of filter backwash waste from California Men’s Colony Drinking Water Treatment Plant to Chorro Reservoir and Chorro Creek

Existing Orders: Waste Discharge Requirements Order R3-2020-0005 (as amended by Order R3-2023-0010), NPDES Permit CA0047856 (for the California Men's Colony Wastewater Treatment Plant)

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

SUMMARY

The Central Coast Water Board enforcement team prepared this staff report. The Central Coast Water Board Assistant Executive Officer and the California Department of Corrections and Rehabilitation (CDCR) entered into confidential settlement discussions and have agreed to settle alleged violations for 1) an unauthorized discharge of partially treated sewage from the California Men's Colony (CMC) Wastewater Treatment Plant (WWTP) that occurred in December 2022, 2) exceeding effluent limitations for wastewater discharges from the CMC WWTP to Chorro Creek from May 2023 through May 2024, and 3) unauthorized discharges of filter backwash waste from the CMC Drinking Water Treatment Plant (WTP) that occurred in August 2023. The proposed final administrative civil liability for all three alleged violations is \$1,671,605. As terms of settlement, \$1,483,605 of the liability will be paid to the State Water Pollution Cleanup and Abatement Account and the remaining \$188,000 in liability will be paid as supplemental environmental project (SEP)¹ funds toward the Bay Foundation of Morro Bay's Central Coast Drinking Water Well Testing Program.

To resolve the alleged violations, the Central Coast Water Board Assistant Executive Officer is presenting the proposed Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order R3-2025-0005 (Stipulated Order), included as Attachment 1, to the Central Coast Water Board for its consideration for adoption.

DISCUSSION

Background on CDCR Facilities Related to this Enforcement Matter

CDCR owns and operates the CMC WWTP that treats domestic wastewater from CMC's facilities, the California Army National Guard's Camp San Luis Obispo, Cuesta College, and several San Luis Obispo County facilities, including the county jail, education center, and operations facility, and is required to comply with Waste Discharge Requirements Order R3-2020-0005 (as amended by Order R3-2023-0010), NPDES Permit CA0047856 (Permit).

CDCR also owns and operates the CMC WTP that supplies potable water to CMC facilities and other customers when treated drinking water is not available from the

¹ A SEP is an environmentally beneficial project that a person subject to an enforcement action voluntarily agrees to undertake in settlement of the action to offset a portion of a civil penalty.

Central Coast Water Authority.² CDCR uses its WTP to treat raw water from Chorro Reservoir and Whale Rock Reservoir. Sand filters are a component of the drinking water treatment processes and filter backwash waste is generated as a waste stream when CDCR cleans the sand filters. CDCR does not have a permit from the Central Coast Water Board to discharge the filter backwash waste.

Alleged Violations and Assessment of Liability

The proposed Stipulated Order seeks imposition of discretionary administrative civil liability, in combination with mandatory minimum penalties (MMPs)³ for a subset of the alleged effluent limitation violations, against CDCR. The penalty methodology set forth in the State Water Resources Control Board's (State Water Board) 2017 Water Quality Enforcement Policy (Enforcement Policy)⁴ was applied to determine the proposed discretionary administrative civil liability amounts.

The alleged violations and corresponding liabilities are summarized as follows:

1. December 2022 Unauthorized Discharge from WWTP: On December 11, 2022, CDCR had an unauthorized discharge of approximately 50,000 gallons of partially treated sewage from the CMC WWTP to Chorro Creek, in violation of a Permit discharge prohibition, the California Water Code, and federal Clean Water Act. The unauthorized discharge was caused and compounded by multiple maintenance issues at the CMC WWTP. CDCR relies on its Supervisory Control and Data Acquisition (SCADA) alarm call-out system to notify CMC operators of treatment system alarms. Prior to the unauthorized discharge, CDCR was aware that the SCADA system needed maintenance and was not working properly. Even though heavy rain was forecasted, CDCR failed to post overnight staff during a high-risk period when the SCADA alarm call-out system was inoperable and one of the WWTP's clarifiers was offline. When the alarm call-out system failed on December 11, 2022, a WWTP operator was not timely notified, reducing the likelihood for prevention and/or minimization of the unauthorized discharge. CDCR also reported that plastic debris accumulated within the WWTP contributed to the December 2022 unauthorized discharge. Since at least 2009, CDCR has been aware of and has acknowledged the issues related to plastic debris entering into and causing operational problems within CMC's sanitary sewer system and WWTP. The proposed liability for this violation is **\$464,848**. The main aggravating factor driving

² The Central Coast Water Authority is a public entity that owns and operates a water treatment plant and pipeline that delivers water from the State Water Project to project participants in portions of Santa Barbara and San Luis Obispo counties.

³ California Water Code section 13385, subdivisions (h) and (i) require a \$3,000 mandatory minimum penalty (MMP) for, among other things, certain effluent limitation violations. The MMP is proposed for any effluent limitation violation where application of the State Water Board's Water Quality Enforcement Policy would result in a liability less than the MMP amount.

⁴ The State Water Board amended the 2017 Enforcement Policy on December 5, 2023, and those amendments became effective on November 7, 2024. The Prosecution Team applied the 2017 Enforcement Policy's penalty methodology, because the Central Coast Water Board enforcement team and CDCR reached an agreement-in-principle prior to November 7, 2024, and the alleged violations occurred when the 2017 Enforcement Policy was in effect.

the proposed liability is culpability. A detailed description of the unauthorized discharge and the application of the Enforcement Policy penalty methodology is provided in proposed Stipulated Order Attachment A.

2. May 2023 through May 2024 Effluent Limitation Violations at WWTP: CDCR has an extended history of resolving effluent limitation violations through payment of MMPs pursuant to California Water Code section 13385, subdivisions (h) and (i). Since February 2009, CDCR has resolved 447 effluent limitation violations for discharges from the CMC WWTP through payment of \$1,341,000 in MMPs. The Central Coast Water Board enforcement team pursued discretionary enforcement for alleged effluent limitation violations from May 2023 through May 2024 to create an appropriate deterrent for future violations.

Specifically, from May 24, 2023 through May 31, 2024, CDCR violated the Permit by exceeding effluent limitations in its discharge to Chorro Creek. The proposed Stipulated Order includes discretionary administrative civil liability for dibromochloromethane, dichlorobromomethane, total nitrogen, and total copper effluent limitation violations and MMPs for pH effluent limitation violations.⁵ The proposed liability for all effluent limitations is **\$947,755**, \$138,000 of which are MMPs associated with the pH effluent limitation violations. The main aggravating factors driving the proposed discretionary liability are culpability and history of violations. A detailed description of the effluent limit violations and the application of the Enforcement Policy penalty methodology is provided in proposed Stipulated Order Attachments B and B-1.

3. August 2023 Unauthorized Discharge at WTP: On seven separate days between August 14, 2023 and August 22, 2023, CDCR violated the California Water Code and federal Clean Water Act by discharging an estimated 400,200 gallons of filter backwash waste from the CMC WTP to Chorro Reservoir and Chorro Creek. Prior to August 2023, Central Coast Water Board staff notified CDCR multiple times of the requirement to apply for and obtain NPDES permit coverage prior to discharging the filter backwash waste to Chorro Reservoir. The proposed liability for this violation is **\$259,002**. CDCR knew it did not have authorization to discharge the filter backwash waste and took no preventative measures to prevent the unauthorized discharge before they occurred. The main aggravating factor driving the proposed liability is culpability. A detailed description of the unauthorized discharge violation and the application of the Enforcement Policy penalty methodology to determine the penalty amount is provided in proposed Stipulated Order Attachment C.

Adoption of the proposed Stipulated Order would resolve alleged violations as described above, which caused unauthorized discharges and effluent limitation exceedances impacting Chorro Reservoir and/or Chorro Creek, which are tributaries to

⁵ The \$3,000 MMP for each pH effluent limitation violation was higher than the discretionary liability calculated using the Enforcement Policy penalty methodology, so the MMP must be assessed. See proposed Stipulated Order Attachments B and B-1 for more details.

Morro Bay, the Pacific Ocean, and the Chumash Heritage National Marine Sanctuary.⁶ The Central Coast Water Board enforcement team contends that the proposed Stipulated Order is fair, reasonable, and fulfills all its enforcement objectives; that no further action is warranted concerning the alleged violations, except as provided in the proposed Stipulated Order; and that the proposed Stipulated Order is in the public's best interest.

Use of SEP Funds Towards the Bay Foundation's Drinking Water Well Testing Program

The State Water Board adopted a revised Policy on Supplemental Environmental Projects (SEP Policy) on December 5, 2017.⁷ The SEP Policy authorizes the regional Water Boards to allow settling respondents to satisfy part of any monetary assessment imposed through administrative civil liability orders arising out of settlements by completing or funding one or more supplemental environmental projects (SEPs). On July 16, 2024, the State Water Board adopted Resolution 2024-0022, which authorizes the use of SEP funds for the Bay Foundation of Morro Bay's (Bay Foundation) Central Coast Drinking Water Well Testing Program (Drinking Water Well Testing Program).⁸ The Central Coast Water Board enforcement team and CDCR agreed that CDCR would pay \$188,000 of the liability as SEP funds to the Bay Foundation's Drinking Water Well Testing Program within 30 days of the proposed Stipulated Order's effective date. \$188,000 is the maximum amount of SEP funds that CDCR is permitted to pay under the State Water Board Resolution 2024-0022.

CDCR will pay the remaining liability amount of \$1,483,605 to the State Water Pollution Cleanup and Abatement Account within 30 days of the proposed Stipulated Order's effective date.

Compliance History and Previous Enforcement

As owner and operator of the CMC facilities, CDCR has been a party to numerous Central Coast Water Board enforcement actions over the last several decades and two recent enforcement actions brought by the United States Environmental Protection

⁶ The designation of the Chumash Heritage National Marine Sanctuary became effective on November 30, 2024, <https://sanctuaries.noaa.gov/chumash-heritage/>. The Central Coast Water Board enforcement team and CDCR engaged in settlement discussions prior to the Chumash Heritage National Marine Sanctuary effective date; therefore, the proposed Stipulated Order does not address the new sanctuary.

⁷ 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.

⁸ See the Bay Foundation's Central Coast Drinking Water Well Testing Program – Use of Supplemental Environmental Project Funds summary document for more details about the program [\[https://www.waterboards.ca.gov/centralcoast/water_issues/programs/enforcement/docs/2024/summary-drinking-water-well-testing-sep.pdf\]](https://www.waterboards.ca.gov/centralcoast/water_issues/programs/enforcement/docs/2024/summary-drinking-water-well-testing-sep.pdf). The Central Coast Water Board enforcement team followed the SEP Policy and State Water Board Resolution 2024-0022

[\[https://www.waterboards.ca.gov/centralcoast/water_issues/programs/enforcement/docs/2024/rs2024-0022.pdf\]](https://www.waterboards.ca.gov/centralcoast/water_issues/programs/enforcement/docs/2024/rs2024-0022.pdf) for the application of conditions in the proposed Stipulated Order for the portion of the liability suspended for the Bay Foundation's Drinking Water Well Testing Program.

Agency (U.S. EPA). Most of the enforcement actions have occurred in the last five years.

Since February 5, 2009, the Central Coast Water Board has issued thirteen administrative civil liability orders to CDCR imposing a total of \$1,341,000 in MMPs for 447 effluent limitation violations. In the last five years, the Central Coast Water Board has issued six administrative civil liability orders to CDCR imposing \$414,000 in MMPs for 138 effluent limitation violations. Through these administrative civil liability orders, CMC has settled effluent limitation violations for exceedances of the same type of effluent limits as those included in the proposed Stipulated Order. In June 2020, the Central Coast Water Board also imposed \$166,896 in discretionary liability for the unauthorized discharge of untreated sewage from the CMC sanitary sewer system to Chorro Creek, and failing to submit a complete technical report required under California Water Code section 13267.⁹

Under a Common Interest Agreement executed in April 2021, the Central Coast Water Board and U.S. EPA enforcement staff jointly investigated and developed allegations against CDCR for their CMC operations. As a result of that coordinated effort, U.S. EPA and CDCR entered into the following two separate Administrative Orders on Consent (AOCs): 1) On September 14, 2023, U.S. EPA and CDCR entered into an AOC to address certain effluent limitation violations from March 2019 to October 2022, plastics in WWTP influent and effluent, unauthorized discharges to Chorro Creek from a leaking drinking water storage tank, and an unauthorized discharge of 6,000 gallons of sanitary sewer overflows to Chorro Creek, and to require that CDCR conduct studies and make repairs to CMC water and wastewater infrastructure, and 2) on May 22, 2024, U.S. EPA and CDCR entered into another AOC to address unauthorized discharges of filter backwash waste from the WTP to Chorro Reservoir and Chorro Creek, and to require that CDCR produce and implement an approved work plan to address the unauthorized discharges.

Despite these state and federal administrative enforcement actions, CDCR remains one of the most noncompliant and obstinate dischargers in the Central Coast region. The Central Coast Water Board enforcement team plans to continue to escalate enforcement until the operations of the WWTP and WTP are in compliance with regulations to ensure protection of water quality.

Proposed Stipulated Order

The Central Coast Water Board enforcement team and CDCR have agreed to settle the matter without administrative or civil litigation and present the proposed Stipulated Order included as Attachment 1 jointly to the Central Coast Water Board for consideration as an Order by settlement, pursuant to California Water Code section 13323 and Government Code section 11415.60.

⁹ Administrative Civil Liability Order R3-2020-0040, https://www.waterboards.ca.gov/centralcoast/board_decisions/adopted_orders/2020/2020_0040_stlmt_cdcrcmc.pdf

Human Right to Water

If the Central Coast Water Board adopts the proposed Stipulated Order, CDCR will pay \$188,000 of liability as SEP funds to fund the Bay Foundation's Drinking Water Well Testing Program, which will further the human right to water.

Environmental Justice

Adoption of the proposed Stipulated Order would resolve alleged violations associated with unauthorized discharges and effluent limitation exceedances impacting Chorro Reservoir and Chorro Creek, which are tributaries to Morro Bay, the Pacific Ocean, and the Chumash Heritage National Marine Sanctuary. Using 2020 census data, the California Department of Water Resources Disadvantaged Community (DAC) Mapping Tool¹⁰ does not identify any areas downstream of the CMC WWTP and WTP as Disadvantaged Communities; however, many peoples from surrounding communities recreate and use the water resources in the waterbodies downstream of the WWTP and WTP. Additionally, the Chumash Heritage National Marine Sanctuary is a waterbody downstream of the WWTP and WTP, that has nationally significant natural, cultural, and historical resources and has and always will be native homelands of Chumash Peoples and their ancestors. The Central Coast Water Board enforcement team acknowledges its consideration of multiple potential sources of harm to beneficial uses caused by the alleged violations addressed in the proposed Stipulated Order. One example of a potential impact to Underrepresented Communities or tribal communities, is that CDCR's December 2022 unauthorized discharge from the CMC WWTP resulted in a 3-day beach closure for the entire harbor area in Morro Bay.

Climate Change

The proposal to suspend a portion of the liability as SEP funds to fund the Bay Foundation's Drinking Water Well Testing Program, aligns with the Central Coast Water Board's climate change goals, because it will implement projects that inform and facilitate climate change mitigation and adaptation strategies. Over 90 percent of the Central Coast region's population depends on groundwater as the only drinking water source. Climatic changes are impacting groundwater quantity and quality conditions (e.g., wells going dry, pollution from flooding, migration of plumes, increased pollutant concentrations as groundwater elevations increase and decrease, sea water intrusion), necessitating more routine monitoring of groundwater to ensure water supplies continue to be safe to drink.

¹⁰ The DAC Mapping Tool is used to inform statewide Integrated Water Resources Management (IRWM), Sustainable Groundwater Monitoring Act (SGMA), and California Water Plan implementation efforts and can be found at the following website: <https://gis.water.ca.gov/app/dacs/>. The tool defines a DAC as a census block with a median household income between \$47,203 and \$62,938 and a severely disadvantaged community (SDAC) as a census block with a median household income below \$47,203.

COMMENTS

The Central Coast Water Board enforcement team publicly noticed the proposed Stipulated Order from December 31, 2024 through January 30, 2025, and received one comment letter from San Luis Obispo County. San Luis Obispo County provided comments supporting the SEP included in the proposed Stipulated Order and provided general feedback encouraging the Central Coast Water Board to consider additional SEPs in the Central Coast region, which is outside the scope of the proposed Stipulated Order. See Attachment 2 for the complete comments and Central Coast Water Board enforcement team responses.

CONCLUSION

If adopted, this proposed Stipulated Order would resolve alleged violations for an unauthorized discharge from the CMC WWTP that occurred in December 2022, effluent limitation violations at the CMC WWTP occurring from May 2023 through May 2024, and unauthorized discharges from the CMC WTP that occurred in August 2023 by the imposition of administrative civil liability against CDCR in the amount of \$1,671,605. Despite previous and ongoing state and federal administrative enforcement actions, CDCR remains one of the most noncompliant and obstinate permitted dischargers in the Central Coast region. The proposed liability is necessary to create an appropriate specific and general deterrent for future violations. The proposed Stipulated Order has very high culpability factors assigned to each set of violations, because Central Coast Water Board enforcement and program staff find that CDCR has negligent behavior and due to the repetitive nature of the violations and the impacts to water resources from poor operation and non-compliance with Permit requirements and state and federal statutes at the CMC WWTP and WTP. An escalation of enforcement by assessing discretionary penalties for MMP violations at the CMC WWTP is also appropriate due to the repetitive nature of the violations and the fact that the expediated payment program that is typically used to resolve MMPs has not been effective for CDCR.

RECOMMENDATION

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

ATTACHMENT

1. Proposed Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order R3-2025-0005
2. Public Comments and Central Coast Water Board Enforcement Team Responses

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