

ATTACHMENT 4
CENTRAL COAST WATER BOARD ENFORCEMENT PROGRAM
DRAFT SETTLEMENT PROJECT PRIORITIES AND CONSIDERATIONS

The State Water Resources Control Board (State Water Board) and the Central Coast Regional Water Quality Control Board (Central Coast Water Board) support the inclusion of settlement projects in the settlement of enforcement actions to offset a portion of a civil penalty, so long as the projects meet the criteria specified in the State Water Board's Water Quality Enforcement Policy (Enforcement Policy)¹ and Policy on Supplemental Environmental Projects (SEP Policy)² to ensure that selected settlement projects have environmental value, further enforcement goals and other important Water Board policies, and are subject to appropriate Water Board input and oversight. To help inform dischargers and Central Coast Water Board Enforcement Program staff in their selection of settlement projects, including supplemental environmental projects (SEPs) and enhanced compliance actions (ECAs),³ during settlement negotiations, the Central Coast Water Board has identified the following settlement project priorities and considerations:

Settlement Project Priorities

Settlement projects must address at least one of the following criteria, and projects addressing multiple criteria will be given higher priority.

- ***Implements the human right to water.*** Examples include but are not limited to projects that provide replacement drinking water, water treatment for drinking and sanitation, water distribution system infrastructure improvements or consolidation, and focused community outreach regarding drinking water quality.
- ***Implements climate change mitigation and adaptation measures.*** Examples include but are not limited to projects that build resilience to climate change impacts on ecosystems or infrastructure and also benefit groundwater, surface water, or drinking water quality or quantity.
- ***Implements sustainable water management measures.*** Examples include but are not limited to projects that implement sustainable water and wastewater treatment, groundwater recharge, water reuse and recycling, and water management solutions.

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 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. 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.

Central Coast Water Board Enforcement Program DRAFT Settlement Project Priorities and Considerations

- ***Provides habitat restoration and enhancement.*** Examples include but are not limited to projects that implement habitat restoration or enhancement; and wetland, stream, or other waterbody protection, restoration, or creation.
- ***Provides water quality benefits to Underrepresented Communities.***⁴ Examples include but are not limited to projects that promote the health, safety, and well-being of residents who spend significant portions of their time in or depend on food and water resources located in or used by Underrepresented Communities.

Settlement Project Considerations

Prior to selecting and agreeing to include a settlement project in a proposed settlement agreement, Central Coast Water Board Enforcement Program staff will consider the following factors to maximize project efficiency and success:

- Project readiness to proceed.
- Demonstrated effectiveness of project method.
- Likelihood for success during project term.
- Long-term sustained benefits to human health and/or the environment.
- Leveraging opportunity to contribute to other projects or larger benefits.
- Project administrator's record of successful project completion and technical, managerial, and financial capacity to complete proposed work.
- Discharger's capacity and accountability to manage and/or make payments towards project implementation.
- Level of Central Coast Water Board staff resources necessary to oversee project relative to benefits.

Option to Use SEP Funds for the Bay Foundation of Morro Bay's Central Coast Drinking Water Well Testing Program

On July 16, 2024, the State Water Board adopted Resolution 2024-0022⁵ to authorize dischargers settling certain administrative civil liabilities with the Central Coast Water Board to select to fund the Bay Foundation of Morro Bay's Central Coast Drinking Water Well Testing Program with SEP funds. The Bay Foundation's Drinking Water Well Testing Program – Use of SEP Funds summary document⁶ provides additional information.

⁴ Underrepresented Communities include, but are not limited to, Disadvantaged Communities (DACs), Severely Disadvantaged Communities (SDACs), Economically Distressed Areas (EDAs), Tribes, Environmentally Disadvantaged Communities (EnvDACs), and members of Fringe Communities.

⁵ https://www.waterboards.ca.gov/centralcoast/water_issues/programs/enforcement/docs/2024/rs2024-0022.pdf

⁶ https://www.waterboards.ca.gov/centralcoast/water_issues/programs/enforcement/docs/2024/summary-drinking-water-well-testing-sep.pdf.