

**REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**EXECUTIVE OFFICER SUMMARY REPORT
AUGUST 12, 2020**

ITEM 15

SUBJECT

Use of Supplemental Environmental Project (SEP) Funds to Supplement SCCWRP Ambient Monitoring Programs. (*Chiara Clemente*)

STAFF RECOMMENDATION

Informational item only; no recommendation.

KEY ISSUE

This item is an opportunity for the San Diego Water Board and members of the public to learn about plans to allow for a portion of assessed monetary penalties to be set aside to support ambient monitoring efforts in the region that are led by the Southern California Coastal Research Project (SCCWRP).

PRACTICAL VISION

The Practical Vision's mission statement is "[h]ealthy waters through collaborative, outcome-focused efforts that support both human uses and sustainable ecosystems." Chapter 1 is about ensuring that the staff, funding, authority, tools, and influence of the Board are put to the best possible use for that purpose. Chapter 2 of the Practical Vision further elaborates that, to be strategic and effective, the Water Board needs information from appropriate monitoring and assessment efforts. Many of the Water Board's penalty actions are statutorily mandated solely for the purpose of creating a deterrent, and they yield little to no environmental outcome to compensate for harm. Staff will discuss an effort, guided by Practical Vision Chapters 1 and 2, to create a streamlined process to apply penalty funds to supplement existing regional monitoring programs.

DISCUSSION

In December 2017 the State Water Board approved updates to the [SEP Policy](https://www.waterboards.ca.gov/water_issues/programs/enforcement/sep.html)¹ that clarified what constitutes a SEP and the criteria by which one can be included as a condition of settlement. In anticipation of the revised SEP Policy, the San Diego Water Board adopted [Resolution No. R9-2017-0014](https://www.waterboards.ca.gov/sandiego/board_decisions/adopted_orders/2017/R9-2017-0014.pdf),² which endorsed a SEP list and a process for prioritizing proposed projects, while recognizing the value of streamlined SEP administration and the desire for a third party administrator. Since the SEP Policy initially became effective in 2010, there has been a notable decline in the number of dischargers that elected to propose a SEP as a condition of liability settlements, both regionally and statewide, thus leaving regional environmental damages from violations largely uncompensated. Based on discussions with dischargers, prosecution team staff believes this decline is because:

- Most dischargers, particularly private entities, are not willing to assume the added responsibilities and liabilities necessary to see SEPs to completion.

¹ https://www.waterboards.ca.gov/water_issues/programs/enforcement/sep.html

² https://www.waterboards.ca.gov/sandiego/board_decisions/adopted_orders/2017/R9-2017-0014.pdf

- Public agencies are limited to funding projects within their scope and service area and tend to propose projects that benefit their interests, whereas many SEP-list projects benefit the interests of the third parties who developed them.
- Many of the penalties resolved through settlement are for small liability amounts, such as mandatory minimum penalties.

In response, staff have been evaluating ways to address some of the reasons that dischargers are not electing to propose SEPs. One example comes from the State Water Board [Resolution No. 2018-0015](#),³ which allows the San Francisco Bay Water Board to direct SEP funds to the San Francisco Estuary Institute's (SFEI's) Regional Monitoring Program (RMP). With this resolution, settlements imposing (smaller) mandatory penalties can be aggregated into a larger monitoring effort, and each discharger's liability is released upon payment to the SFEI RMP.

The San Diego Water Board has a similar framework for RMPs led by the Southern California Coastal Water Research Project (SCCWRP), and staff believes that a similar resolution would benefit our region. SCCWRP is a Joint Powers Authority, governed by a Commission,⁴ originally formed to study the effects of wastewater discharges on the marine environment in the southern California bight (Bight). It is an established entity with a proven record of project completion and monitoring expertise. SCCWRP also manages RMPs in the San Diego Region for the Bight and for regional stormwater monitoring.

The Bight RMP is an ongoing marine monitoring collaboration that examines how human activities have affected the health of more than 1,500 square miles of Southern California's coastal waters. Via this partnership, facilitated by SCCWRP, dozens of participating organizations pool their resources to investigate the condition of marine ecosystems across both time and space. Monitoring objectives are designed to answer the questions such as "Is it safe to swim?" and "Are fish and shellfish safe to eat?"

Similarly, the Stormwater Monitoring Coalition's (SMC) RMP was subsequently formed to assess the health of southern California's streams in its 17 coastal watersheds (from Ventura to the Tijuana River). The SMC is a separate coalition that consists of SCCWRP researchers, southern California local government agencies, and their respective Water Boards. SCCWRP receives funds from these participating agencies and manages the budget and contracts necessary for implementation of the RMP. The SMC RMP collects data annually on water quality, physical habitat and riparian conditions, and biological communities including benthic invertebrates and algae to answer the questions "What is the extent and magnitude of impact in southern California's streams?", "How is this changing over time?", and "What are the stressors responsible for the impacts observed?"

Both RMPs provide monitoring information that is critical for evaluating our water quality threats, conditions, and resulting priorities and actions. Supplementing these monitoring efforts with SEP funds would allow us to have a larger data set to rely on when making

³ https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2018/rs2018_0015.pdf

⁴ SCCWRP is governed by a 14-member board known as the SCCWRP Commission. Made up of senior managers from Southern California's largest wastewater treatment agencies, stormwater management agencies and water-quality regulatory agencies, including the San Diego Water Board.

water quality decisions. In order to make this option a reality, staff must invest in an initial effort to obtain State Water Board approval and develop a path forward for operations.

LEGAL CONCERNS

None.

PUBLIC NOTICE

The agenda notice for today's meeting was posted on the San Diego Water Board's website and sent to subscribers to the email list for Board meetings. This satisfies the Bagley-Keene Open Meeting Act requirements to publish the meeting notice and agenda.

SUPPORTING DOCUMENTS

None.