

Response to Comments
Received on Proposed Stipulated Order No. R3-2016-0045, Settlement Agreement and
Stipulation for Entry of Administrative Civil Liability Order No. R3-2012-0041
South San Luis Obispo County Sanitation District

October 13, 2016

The Central Coast Water Board received the following comments on the matter:

1. Email (October 3, 2016) and phone conversations with Brad Snook, co-chair, Surfrider Foundation San Luis Obispo.

Comment: SEP funds should be directed to a local project to improve ocean water quality monitoring.

Response: We agree that Surfrider's proposal is a worthy one. However, typically Supplemental Environmental Projects (SEPs) are proposed by the discharger and reviewed for adequacy by the Central Coast Water Board. The SEPs proposed by the district comply with the State Water Resources Control Board's *Policy on Supplemental Environmental Projects* (SEP Policy):

(http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/rs2009_0013_sep_finalpolicy.pdf) and *Water Quality Enforcement Policy*

(http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final11709.pdf) and address important and high-priority needs in the vicinity of the spill and region wide, and will result in better protection of water quality.

We encourage Surfrider to pursue funding of the monitoring project with local agencies and the State Water Resources Control Board.

2. Letter dated October 3, 2016, from Jeff Edwards and Julie Tacker

Comment: Settlement monies should go to address the past violation and its causality. The 2010 spill was primarily caused by flooding; the settlement funds are not intended to be used to prepare or mitigate future flooding potential.

Response: As detailed in, there are many criteria that the Central Coast Water Board uses to judge the appropriateness of SEP and enhanced compliance action (ECA) proposals. The selection and approval of a SEP or ECA does not have to be driven by any single criterion, so long as the proposed SEP or ECA meets the minimum qualification criteria and there is a nexus between the violations and the SEP or ECA. The proposed SEPs and ECA meet these criteria.

Comment: "There is no nexus between modeling of the basin and the impacts of the violation, the proposed use of settlement funds relates to water quantity and the violation relates to water quality."

Response: A nexus exists because the model will be used for water quality protection, including planning for injection of recycled water and protection against seawater intrusion.

Comment: The model developer, Northern Cities Management Area, includes agencies other than those that compose the SSLOCSD. These agencies would benefit "without matching proportionately to the project."

Response: There is no reason an SEP can't benefit parties other than SSLOCSD. In most cases, SEPs have no direct benefit at all to the party whose violation the enforcement action

is based on. Nor does the violating party typically have any control over how the SEP is managed. Additionally, most SEPs have benefits to parties not involved in the enforcement action (i.e., users of the protected or restored water resource).

Comment: SSLOCSD member agencies don't control the schedule for the modeling project.

Response: This is true. By accepting the SEP, the NCMA as a whole is responsible for meeting the terms of the agreement. By agreeing to this settlement, SSLOCSD is relinquishing control of the SEPs.

Comment: The SSLOCSD should be given pro-rata credit for the individual contributions toward the modeling project.

Response: Again, SSLOCSD relinquishes all control over the funds once it complies with the settlement agreement.

Comment: The commenters object to the requirement to pay one-half of the liability to the State Water Resources Control Board's Cleanup and Abatement Fund. The money should be spent locally plan for relocating SSLOCSD facilities.

Response: The settlement agreement complies with the SEP Policy, which states that "no settlements shall be approved by the Water Boards that fund a SEP in an amount greater than 50 percent of the total adjusted monetary assessment against the discharger, absent compelling justification."

3. Memo from Wade Horton, County of San Luis Obispo; Benjamine Fine, City of Pismo Beach; Greg Ray, City of Grover Beach; Paavo Ogren, Oceano Community Services District; and Geoff English, City of Arroyo Grande

Comment: The commenters represent member agencies of the Northern Cities Management Area (NCMA). They suggest editing the order to state that the scope of work for the groundwater model is a draft and that the agencies can propose edits to the scope and schedule for approval of the Central Coast Water Board Executive Officer. They explain that making the edits will meet the following objectives:

- The basin boundaries need to cover the territory identified in the Santa Maria Groundwater Basin adjudication as well as the boundaries recognized by the California Department of Water Resources so that the model also conforms to requirements of the Sustainable Groundwater Management Act of 2014 (SGMA).
- The final approach to the phasing of work included in Exhibit "C" need to establish a priority for timely development of hydrological information that directly supports regional reclamation efforts being pursued by the City of Pismo Beach and the South San Luis Obispo County Sanitation District.
- The outcomes of the groundwater modeling efforts need to directly support the development of recommendations on a regional groundwater monitoring plan that covers basin needs relating to adjudication, reclaimed water, SGMA and other priorities that may be identified by the Regional Board.

Response: The Water Board concurs with the suggested edits to the proposed order and has incorporated them into the final version.