

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

STAFF REPORT FOR REGULAR MEETING OF JULY 13-14, 2017

Prepared on June 20, 2017

ITEM NUMBER: 9

SUBJECT: Settlement of Administrative Civil Liability Complaint No. R3-2017-0015 for Cambria Community Services District Reporting Violations

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THIS ACTION: Informational Item

DISCUSSION

Summary:

On April 18, 2017, the Central Coast Regional Water Quality Control Board (Central Coast Water Board) prosecution staff (Enforcement Team) issued Administrative Civil Liability Complaint No. R3-2017-0015 (ACL Complaint) (Attachment 1).¹ The ACL Complaint alleged that Cambria Community Services District (CCSD or Discharger) violated Water Code section 13267 by failing to submit timely self-monitoring reports as required by Waste Discharge Requirements Order No. R3-2014-0050 and revised Monitoring and Reporting Program No. R3-2014-0050 (Order).² The Discharger submitted a signed Waiver Form, agreed not to contest the ACL Complaint and paid the fine in full (Attachment 2).³ Therefore there will not be a hearing at the Board meeting since the ACL Complaint is resolved. This staff report provides the Central Coast Water Board and the public an overview of the ACL Complaint.

Violations

The Discharger owns and operates the Cambria Emergency Water Supply Project (EWS Project) located at the Discharger's existing San Simeon well field and effluent percolation ponds property in San Luis Obispo County, adjacent to San Simeon Creek and Van Gordon Creek. The EWS Project treats impaired groundwater to recharge the San Simeon well field aquifer with treated water. On November 14, 2014, the Central Coast Water Board adopted the Order to regulate recycled water at the Discharger's effluent percolation pond site and injection of the treated water into the San Simeon aquifer.

¹ The ACL Complaint is attached hereto and is also available at:

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/enforcement/docs/2017_0015_cambria_csd_acl_complaint_04_18_17.pdf

² A copy of the Order is available at:

http://www.waterboards.ca.gov/centralcoast/board_decisions/adopted_orders/2014/cambria/title_22/Cambria%20CSD%20Order%20R3-2014-0050%2011-17-14%20Final.pdf

³ The signed Waiver Form and proof of payment is attached hereto and is also available at:

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/enforcement/docs/2017_0015_cambria_csd_acl_complaint_signed%20waiver_5_3_17.pdf

The Discharger began operating the EWS Project in January 2015. During the first year of operation, the Discharger submitted only two monthly self-monitoring reports on time. Concerned with reporting costs, the Discharger requested revisions to its initial Monitoring and Reporting Program, which was based on the information submitted as part of the Report of Waste Discharge. Central Coast Water Board staff evaluated the Discharger's available monitoring data which revealed that analytical results from well 9P7, the membrane filtrate water, and membrane backwash were virtually identical. On October 7, 2015, the Executive Officer approved a revised Monitoring and Reporting Program to eliminate sampling from well 9P7 and from the membrane filter backwash water sent to the percolation ponds. These revisions were only possible because the Discharger had supporting data; data that was not available when the Order was adopted. The revised Monitoring and Reporting Program also changed some of the monitoring frequencies from grab samples to composite samples at the Discharger's request.

The Discharger continued to submit late self-monitoring reports from November 2015 to January 2017, despite the revised Monitoring and Reporting Program and sustained assistance from Central Coast Water Board staff who developed a spreadsheet monitoring tool for timely report submittals and sent reminder emails when report due dates were fast approaching or overdue.

On February 9, 2017, Central Coast Water Board staff sent the Discharger a Notice of Violation (NOV)⁴ for chronic violations of the Order and other waste discharge requirements, which summarized the Discharger's history of submitting late monitoring reports.

On April 13, 2017, Central Coast Water Board staff sent the Discharger another NOV for violations of the Discharger's February 9, 2017 NOV response and other waste discharge requirements. The April 13, 2017 NOV notified the Discharger of the Enforcement Team's intent to issue the ACL Complaint.

ACL Complaint Summary

The ACL Complaint focused on six violations for late submittal of monthly self-monitoring reports that occurred after approval of the revised Monitoring and Reporting Program and only for those periods when the treatment system was in operation.⁵ The Enforcement Team alleged these violations as it considered them the most egregious. The late submittal of monthly reports impairs the Discharger's, Central Coast Water Board's, and Division of Drinking Water's ability to evaluate EWS Project performance, identify and respond to equipment and treatment plant problems, protect water quality and beneficial uses of the groundwater in the San Simeon aquifer, and protect public health.

The Central Coast Water Board retains the authority to assess additional penalties for violations of Order requirements for which penalties were not assessed in the ACL Complaint, including late self-monitoring reports prior to October 7, 2015, and during periods when the EWS Project was non-operational. The Enforcement Team could pursue future enforcement against the Discharger to address outstanding violations based on direction from the Central Coast Water Board or based on the Enforcement Team's assessment of the Discharger's future performance with respect to compliance. The Enforcement Team's intent with this initial, limited enforcement

⁴ The February 9, 2017 Notice of Violation is available at: http://www.waterboards.ca.gov/centralcoast/water_issues/programs/enforcement/docs/2017_0016_cambria_cdo_initial_exhibit_list/Ex4%20NOVs%20dated%20February%209,%202017.pdf

⁵ The EWS Project reinjected treated water into the San Simeon aquifer during the following periods: 1/20/2015 to 4/30/2015; 9/20/2015 to 12/31/2015; and 9/19/2016 to 12/23/2016.

action is to achieve compliance, while not relieving the Discharger of potential liability for other past violations not addressed in this enforcement action. Going forward, if the Discharger does not comply with Central Coast Water Board requirements, the Enforcement Team will consider all outstanding violations in a progressive enforcement approach, unless directed otherwise by the Central Coast Water Board or the Executive Officer.

The Enforcement Team issued an ACL Complaint for the above violations pursuant to the California Water Code. The ACL Complaint included a recommendation for a penalty amount of \$53,596, which was derived from using the penalty methodology in the State Water Resources Control Board's Water Quality Enforcement Policy (May 2010)⁶ (Enforcement Policy). The penalty methodology addresses the factors required by Water Code section 13327, including the Discharger's culpability, history of violations, ability to pay and continue in business, and other factors as justice may require. The specific application of the penalty methodology is provided in Attachment B of the ACL Complaint. The Discharger agreed not to contest the ACL Complaint, waived their right to a hearing before the Central Coast Water Board, and submitted a check for the full liability amount on May 3, 2017.

CONCLUSION

The Discharger's submission of the full payment of the liability amount and waiver of their right to a hearing is considered the final settlement agreement that resolves the violations alleged in the ACL Complaint.

This enforcement action has moved the Discharger away from chronic late submittals of self-monitoring reports. From February 15, 2017 through June 15, 2017, the Discharger has submitted its monthly self-monitoring reports on time. These timely reports, however, were for non-operational periods. The Central Coast Water Board staff will continue to work with and encourage the Discharger to not only continue its submission of timely self-monitoring reports when the EWS Project becomes operational, but to submit complete and adequate reports per the Order's requirements.

ATTACHMENTS

- 1) Administrative Civil Liability Complaint No. R3-2017-0015
- 2) Signed ACL Complaint Waiver Form and Proof of Payment

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⁶ A copy of the Enforcement Policy is available at:
https://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf