



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

August 19, 2020

Via E-mail

Mr. Kenny Croyle
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive #200
Rancho Cordova, CA 95670
Kenny.Croyle@waterboards.ca.gov

RE: Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order R5-2020-XXXX – Mule Creek State Prison (MCSP)

Dear Mr. Croyle:

Thank you for the opportunity to comment on the Central Valley Regional Water Quality Control Board's (RWQCB) proposed settlement with the California Department of Corrections (CDCR) for violations at its Mule Creek State Prison (MCSP) Facility, in Ione CA (the Facility). The EPA appreciates the RWQCB's efforts to issue this proposed Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (the Order), but we also have some concerns described below.

Although the proposed action does not take into account the entire duration or full volume of commingled sewage and stormwater which has been observed discharging into Mule Creek both before and after the penalty period noted in the Order, it is a substantial penalty based primarily on the economic benefit that CDCR enjoyed by its failure to properly operate and maintain its sewer and stormwater systems. It is appropriate that CDCR pay this penalty for its failure. However, we are concerned that this penalty action does not put the Facility on a pathway to compliance with the Clean Water Act. The proposed Order does not require MCSP to perform sewer and stormwater system infrastructure upgrades to eliminate the flow of sanitary sewer wastewater into the stormwater system and to ensure proper operation of both the stormwater and sewer systems. Undoubtedly the commingled sewage and stormwater discharges to Mule Creek are impacting water quality. Coliforms, fecal coliforms and E. coli are consistently found at high concentrations in Mule Creek. Beneficial uses for the Mokelumne River (located downstream from Mule Creek) and the Mokelumne River Watershed include, among other things, contact and noncontact recreation. Both semi-volatile and volatile organic compounds (SVOCs/VOCs) have also been detected in MCSP water sampling results, potentially impacting

surface waters. Based on the CDCR's history at this Facility, the EPA anticipates that additional enforcement actions will be necessary to establish a clear plan, with an enforceable schedule and deadlines, to bring the Facility into compliance with the Clean Water Act.

The EPA also has concerns about the proposed Enhanced Compliance Actions (ECAs) in the Order. We support the Order's inclusion of a project to replace the deficient landscape irrigation system at MCSP. EPA believes this will help to reduce inflow to the stormwater collection system. The success of the project should be required to be evaluated to ensure that this project addresses the full scope of deficiencies in MCSP's irrigation system. The other ECA project, the Stormwater Microbiological Study, is projected to take 30 months to complete, may be duplicative of other studies conducted at the Facility, and alone is unlikely to lead to compliance with the Act. Given what is known about the current comingling of sewage and stormwater, at a minimum, CDCR should proceed on a parallel track with interim measures to treat and reduce the volume of discharges of commingled sewage and stormwater while the Facility makes the necessary infrastructure repairs and improvements to eliminate all discharges of commingled sewer and stormwater into Mule Creek.

In sum, the EPA supports this penalty action but believes that it falls short of addressing the underlying issues at the Facility. The Order as currently proposed does not adequately speak to the full scope of systemic deficiencies under which the Facility has operated for years. Noncompliance will continue without capital improvements as indicated to be necessary by investigative studies conducted to date at the Facility. EPA is interested in continuing to understand the facts of this matter and ensuring the CDCR promptly completes all the work necessary to consistently achieve compliance with the Clean Water Act.

If you have questions regarding these comments, please call me at (415) 972-3908. You may also contact Eric Magnan, Manager, Water Section 1 at (415) 947-4179 or Grant Scavello, Inspector, Water Section 1 at (415) 972-3556.

Sincerely,

Elizabeth Berg
Assistant Director, Water Branch

Cc: Yvonne West, California State Water Resources Control Board